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WK

Mailed: 8/19/05

In re application of	:	
Micheneau	:	DECISION ON
Serial No. 10/875,123	:	PETITION
Filed: June 23, 2004	:	
For: POLYAMIDE-BASED MULTILAYER TUBE FOR TRANSFERRING FLUIDS	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed November 19, 2004, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the 4 page Appendix to the Specification submitted June 23, 2004 be expunged and that the documents are appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/875,123

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Thomas F. Roland
Arkema Inc.
2000 Market Street, 26th Floor
Philadelphia, PA 19103

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Elias W. Packman :
Application No. 10/875,132 : DECISION ON PETITION
Filed: June 23, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 04-40225-US : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 21, 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 signed copy of the statement/Declaration. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

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

The application is being forwarded to the Technology Center Art Unit 1615 for action on the merits commensurate with this decision.

Dana Rose for
David Bucci
Petitions Examiner
Office of Petitions

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DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Chih-Hsin Ko et al :
Application No. 10/875,141 : DECISION ON PETITION
Filed: June 23, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2003.0214/1085.259 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Chih-Hsin Ko et al :
Application No. 10/875,141 : DECISION ON PETITION
Filed: June 23, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2003.0214/1085.259 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 7, 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 2815 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

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/875,141	06/23/2004	2815	860	2003.0214/1085.259	25	2

CONFIRMATION NO. 9092

CORRECTED FILING RECEIPT

OC000000024865900

54657
DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

Date Mailed: 07/17/2007

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)

Chih-Hsin Ko, Fongstan City, TAIWAN;
Yee-Chia Yeo, Singapore, SINGAPORE;
Wen-Chin Lee, Hsinchu, TAIWAN;
Chung-Hu Ge, Taipei, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number **08933**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/423,513 04/25/2003 PAT 6,882,025

Foreign Applications

If Required, Foreign Filing License Granted: 08/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/875,141

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Isolation structure for strained channel transistors

Preliminary Class

257

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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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of
Kamvar et al
Application No.10/875,143
Filed: June 22, 2004
Attorney Docket Number: 060963-5005-US
Title of Invention: Anticipated Query Generation and Processing in a Search Engine

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on August 18, 2004, requesting that the above-identified application be accorded a filing date of June 22, 2004, rather than the presently accorded filing date of June 23, 2003.

Petitioner contends the application was deposited in Express Mail service on June 22, 2004. In support, petitioner supplied a copy of Express Mail receipt No. EV371772567US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service official postmark dated June 22, 2004.

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

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **June 22, 2004** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 10/875,144 : ON PETITION
Deposited: June 23, 2004 :
Attorney Docket No.:96-168-RI-C1 :
Title of Invention: METHOD AND :
APPARATUS FOR MOTIVATING PLAYERS TO:
RETURN TO A CASINO USING PREMIUMS :

This is a decision on the Petition for Filing Date filed October 15, 2004, requesting that the above-identified application be accorded the filing date of June 23, 2004.

Application papers in the above-identified application were deposited on June 23, 2004. However, on September 13, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 6 sheets of drawings, including figures 1-6 and the present petition were filed on October 15, 2004. The petition contends that the application as filed included 6 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "Formal Drawings (6 sheets) (figs.1-6)" on June 23, 2004.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on June 23, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is

---

[1] See 35 U.S.C. 111(a)(4)

[2] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

concluded that 6 sheets of drawings, including figures 1-10, were received on June 23, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. Accordingly, deposit account 50-0271 is being credited with the $130.00 petition fee.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on October 15, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of June 23, 2004**, using the 6 sheets of drawings supplied on October 15, 2004.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Jays S. Walker	: DECISION ON REQUEST FOR
Patent Number	: 7641547	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,144	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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Paper No. 30805

APR - 5 2005

MICHAEL BEST & FRIEDRICH LLC
401 North Michigan Avenue
Suite 1900
Chicago, IL 60611-4212

In re Application of:
Michael Sugar
Serial No.: 10/875,153
Filed: June 23, 2004
Attorney Docket No.: **048544-9005**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 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.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(i), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

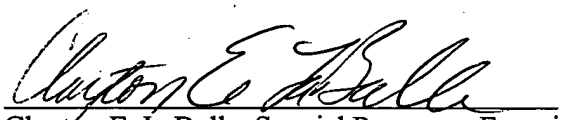
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent 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. § 1309.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Yi-Wen Tseng
4331 Stevens Battle Lane
Fairfax, VA 22033

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Stan Cheng et al. :
Application No. 10/875,170 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. OP-093000360 :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 27, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the reply submitted does not *prima facie* place the application in condition for allowance for the reasons stated on the attached Examiner's Advisory Action, 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 grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

As to item (1) please refer to the attached advisory action for further explanation.

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should

note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 28, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Yi-Wen Tseng was working of behalf of the applicant at the time of abandonment, an explanation is required as to why this application became abandoned while it was under his control and what efforts were made by Yi-Wen Tseng to further reply of itself and with whom this matter was discussed outside of Yi-Wen Tseng's office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), counsel of record at the time, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the office of Yi-Wen Tseng, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in

1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the office of Yi-Wen Tseng and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 - *12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/875,170	**Applicant(s)** CHENG ET AL.	
	Examiner CHANDRIKA PRASAD	**Art Unit** 2839	

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

THE REPLY FILED 29 April 2008 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 Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-8*.
   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: _____.

/Chandrika Prasad/
Primary Examiner, Art Unit 2839

Continuation of 3. NOTE: The addition of the piercing part extending over the elongate surfaces up to the same level of the faces requires further consideration and/or search. Furthermore, the same level and the faces have no antecedent basis..

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments are not persuasive. Lopinski does show a locking mechanism in an interior surface for locking with each piercing part (see Fig.14). Making two parts normally made in two parts as an integral member is well known and considered ordinary skill in the art..

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Yi-Wen Tseng
4331 Stevens Battle Lane
Fairfax, VA 22033

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of :
Stan Cheng et al. :
Application No. 10/875,170 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. OP-093000360 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 27, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the reply submitted does not *prima facie* place the application in condition for allowance for the reasons stated on the attached Examiner's Advisory Action, 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 grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

As to item (1) the previously filed amendment does not place the application in condition for allowance if the case were to be revived. Please refer to the attached advisory action for further explanation that was mailed with the previous decision on August 4, 2008. It should also be noted that a proper reply has not been received for the Final Rejection mailed on September 27, 2005.

As to item (3), the attorney of record supplied a further explanation with this petition. Attorney of record Kao H. Lu had stated that a RCE was filed with the USPTO and was never received or recorded. Attorney made note that there were attempts to contact the examiner and the USPTO regarding the RCE that was filed according to Kao H. Lu. Explanation is needed from the attorney as to how often status checks were made to the Office and/or submission of any phone logs or written correspondence regarding the status of the RCE to the examiner or within the USPTO. Submission is required of any docketing records within Kao H. Lu's office that show the filing of the RCE and what date the RCE was filed.

Petitioner mentions that the Notice of Abandonment was received on June 4, 2006. The Office requests more information as to why there was a delay in making the applicant aware of the status of the application and the additional time that lapsed before filing a petition to revive.

Any renewed petition may be addressed as follows:

By Mail:
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Alexandria, VA 22313-1450

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Yi-Wen Tseng
4331 Stevens Battle Lane
Fairfax, VA 22033

In re Application of :
Stan Cheng et al. :
Application No. 10/875,170 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. OP-093000360 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 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 September 27, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is December 28, 2005. A Notice of Abandonment was mailed on April 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2839 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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LAWRENCE GALVIN
FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Paul A. Goodwin :
Application No. 10/875,189 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. 09539.0001-00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2005.

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

A review of the file record indicates that the power of attorney to Lawrence F. Galvin has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: Michael Tavella
2051 Brigadier Drive
Anchorage, AK 99507

cc: Variance Dynamical, Inc.
406 G Street, Suite 205
Anchorage, Alaska 99501

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Kawasaki, et al.
Application No. 10/875,210
Filed: 25 June 2004
For: COMPUTER SYSTEM, MANAGEMENT DEVICE, AND LOGICAL DEVICE SELECTING METHOD AND PROGRAM

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

This is a decision on the petition filed 29 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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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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SEP 19 2008

In re Application of :
Chih-Sheng Lu, et al. :
Application No. 10/875,226 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. LUCH3013/EM :
:

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 6, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 5, 2007. It is noted that a Request for Continued Examination (RCE) was filed on December 27, 2007. However, the RCE was held improper by a Notice mailed January 17, 2008, since it did not include the submission required by 37 CFR 1.114. A Notice of Abandonment was mailed on February 8, 2008. In response, on May 19, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the submission required by 37 CFR 1.114 in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1625 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 27, 2008

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/875227 Patent No.: 7241546 B2

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

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

[redacted]

DO NOT SENT TO ATTORNEY

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

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

[redacted]

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

Thank You For Your Assistance

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

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

Comments: 16

SPE 1795 Art Unit

PAGE 2/4 * RCVD AT 4/2/2008 1:30:33 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2709990 * CSID:703 306 3186 * DURATION (mm-ss):01-36

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JAN 30 2006

OFFICE OF PETITIONS

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

In re Application of :
Mark Doherty et al :
Application No. 10/875,234 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 115-41US/12667/100127 :

This is a decision on the petition, filed January 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 21, 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 2817 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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Paper No. _____

Date : January 30, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mark Doherty et al
Application No. :10/875,234
Filed :June 25, 2004

The above-identified application has been assigned Patent No. 6,995,614 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. 6,995,614 to Mark Doherty et al of Massachusetts for POWER AMPLIFIER (PA) EFFICIENCY WITH LOW CURRENT DC TO DC CONVERTER 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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OFFICE OF PETITIONS

Linda Horner
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

In re Application of :
Wade Keith Wan :
Application No. 10/875,235 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. 1875.6330001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 7, 2006.

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

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).

Power of attorney was given to practitioners associated with Customer Number 28393. According to the Office records, Linda E. Horner is not associated with this Customer Number.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sterne, Kessler, Goldstein & Fox PLLC**
1100 New York, N.W.
Washington D.C. 20005

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application :
Leszek Cieplinski :
Application No. 10/875,237 : DECISION ON APPLICATION
Filed: June 25, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **1906-0137PUS1** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705 (d) filed August 4, 2009. Applicant requests that the determination of patent term adjustment be corrected from 494 days to 1304 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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 of the patent term adjustmen relating to such regulations until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

[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.

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NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of :
Keiji Okinaka, et al. :
Application No.: 10/875,242 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No.: 03500.018220 :

This is a decision on the petition, filed February 6, 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 December 27, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1794 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Lee, Chen, Huang, Yao, and Chen : DECISION REFUSING STATUS
Application No. 10/875,258 : UNDER 37 CFR 1.47(a)
Filed: June 23, 2004 :
Attorney Docket No. 7134P001 :
For: METHOD AND APPARATUS FOR ADAPTIVE :
MULTIPLE-DIMENTIONAL SIGNAL SEQUENCES ENCODING/
DECODING

This is a decision on the petition under 37 CFR 1.47(a) filed January 24, 2005.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on June 23, 2004, without a properly executed declaration. A Notice to File Missing parts of Nonprovisional Application was mailed on October 20, 2004 requiring a declaration complying with 37 CFR 1.63. The notice allowed an extendable period for response of two months from its mailing date. The instant petition was received on January 24, 2005 (certificate of mailing dated January 19, 2005) along with a request for an extension of time within the first month.

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

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

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

(3) the petition fee,

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

The instant petition lacks items (2) and (4) above.

As to item (2), the declaration filed is not proper because it does not provide the address or citizenship for inventor Lee. Any renewed petition must be accompanied by a declaration complying with 37 CFR 1.63, including the citizenship and address for inventor Lee.

As to item (4), the last known address for inventor Lee was not found in the instant petition. If the application is granted status pursuant to 37 CFR 1.47(a), the Office is required to provide inventor Lee with notice of the same pursuant to 37 CFR 1.47(c). Accordingly, petitioner must provide the last known address for inventor Lee with any renewed petition filed.

Deposit account 02-2666 will be charged $200.00 for the instant petition fee.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Lee, Chen, Huang, Yao, and Chen : DECISION REFUSING STATUS
Application No. 10/875,258 : UNDER 37 CFR 1.47(a)
Filed: June 23, 2004 :
Attorney Docket No. 7134P001 :
For: METHOD AND APPARATUS FOR ADAPTIVE :
MULTIPLE-DIMENTIONAL SIGNAL SEQUENCES ENCODING/
DECODING

This is a decision on the petition under 37 CFR 1.47(a) filed January 24, 2005.

The decision on petition mailed March 23, 2005, is **vacated** because of petitioner's non-receipt of the decision.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on June 23, 2004, without a properly executed declaration. A Notice to File Missing parts of Nonprovisional Application was mailed on October 20, 2004 requiring a declaration complying with 37 CFR 1.63. The notice allowed an extendable period for response of two months from its mailing date. The instant petition was received on January 24, 2005 (certificate of mailing dated January 19, 2005) along with a request for an extension of time within the first month.

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

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

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

(3) the petition fee,

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

The instant petition lacks items (2) and (4) above.

As to item (2), the declaration filed is not proper because it does not provide the address or citizenship for inventor Lee. Any renewed petition must be accompanied by a declaration complying with 37 CFR 1.63, including the citizenship and address for inventor Lee.

As to item (4), the last known address for inventor Lee was not found in the instant petition. If the application is granted status pursuant to 37 CFR 1.47(a), the Office is required to provide inventor Lee with notice of the same pursuant to 37 CFR 1.47(c). Accordingly, petitioner must provide the last known address for inventor Lee with any renewed petition filed.

Deposit account 02-2666 will be charged $200.00 for the instant petition fee.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Lee, Chen, Huang, Yao, and Chen :
Application No.: 10/875,258 : DECISION ACCORDING
Filed: June 23, 2004 : RULE 47(a) STATUS
Attorney Docket No: 7134P001 :
For: **METHDO AND APPARATUS FOR ADAPTIVE MULTIPLE DIMENTIONAL SIGNAL SEQUENCES ENCODING/DECODING**

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 8, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on June 23, 2004, without a properly executed declaration. On October 20, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration and payment of a surcharge. The notice allowed an extendable period for reply of two-months from its mailing date. A petition under 37 CFR 1.47(a) was filed on January 24, 2005, and dismissed by a decision first mailed March 23, 2005. The instant renewed petition was filed on August 8, 2005, with an extension of time within the fifth month.

Petitioner has shown that inventor Lee has refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Tsu-Chang Lee
485 Aspen Way
Los Altos, CA 94024

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Lee, Chen, Huang, Yao, and Chen :
Application No.: 10/875,258 : LETTER
Filed: June 23, 2004 :
Attorney Docket No: 7134P001 :
For: **METHDO AND APPARATUS FOR ADAPTIVE MULTIPLE DIMENTIONAL SIGNAL SEQUENCES ENCODING/DECODING**

Dear Mr. Lee:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Tsu-Chang Lee et al. :
Application No. 10/875,258 : DECISION ON PETITION
Filed: June 23, 2004 : TO WITHDRAW
Attorney Docket No. 7134P001 : 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 13, 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 Jordan Becker on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first signing inventor, Wen-Lung Chen 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: **Wen-Lung Chen**
10455 Creston Drive
Los Altos, CA 94204

cc: **Kurt T. Mulville**
Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92814-2558

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Wen-Lung Chen
10455 Creston Drive
Los Altos, CA 94024

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Tsu-Chang Lee et al. :
Application No. 10/875,258 : DECISION ON REQUEST FOR
Filed: June 23, 2004 : REVOCATION OF POWER
Attorney Docket No. 7134P001 : 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 July 11, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because all of the inventors from the declaration did not sign the request.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Donald Daley**
Harness, Dickey & Pierce PLC
11730 Plaza America Drive
Suite 600
Reston, VA 20191

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

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OFFICE OF PETITIONS

In re Application of	:	
Rie Sato et al.	:	
Application No. 10/875,273	:	
Filed: June 25, 2004	:	DECISION ON PETITION
Attorney Docket No.: 255053US2	:	UNDER 37 C.F.R. § 1.181
Title: MAGNETIC ELEMENT,	:	
MAGNETIC INFORMATION	:	
REPRODUCING HEAD, AND MAGNETIC	:	
INFORMATION REPRODUCING	:	
APPARATUS	:	

This is a decision on the petition filed May 25, 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 October 27, 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 January 28, 2007. A notice of abandonment was mailed on May 10, 2007.

With the present petition, Petitioner has asserted that a response was submitted on April 25, 2007, along with a three-month extension of time.

Petitioner has further submitted a postcard receipt that evinces the receipt of an "amendment" and a "credit card form for

$ 1020.00" in the Office on April 25, 2007.

The electronic file has been reviewed, and a copy of this response has been located in the same.

The electronic records associated with this application have been reviewed, and it is noted that the fee that is associated with the filing of a three-month extension of time was received on April 25, 2007.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted on April 25, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

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 notify the Examiner of this decision, so that the amendment that was received on April 25, 2007 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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In re Application of :
Takashi Horie et al :
Application No. 10/875,274 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 254129USOCONT :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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

Mail Date: 04/22/2010

Applicant	: Theodore A. Yednock	: DECISION ON REQUEST FOR
Patent Number	: 7605166	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,282	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **830** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
George Dallas, Benoit Rollet, :
Christophe Meisch and Serge Pouilly: DECISION REFUSING STATUS
Application No. 10/875,290 : UNDER 37 CFR 1.47(a)
Filed: June 25, 2004 :
For: CABLE ELEMENT HAVING
REPOSITIONABLE PRESSURE SENSITIVE
ADHESIVE TO COUPLE BUFFER TUBES TO
A CENTRAL STRENGTH MEMBER

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 19, 2004.

The petition is dismissed.

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

The above-identified application was filed on June 25, 2004 without an executed oath or declaration and naming George Dallas, Benoit Rollet, Christophe Meisch and Serge Pouilly as joint inventors.

Accordingly, on August 20, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on October 19, 2004, the instant petition was filed.

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

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

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

(3) the petition fee; and

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

Regarding Christophe Meisch, applicant lacks item (1), as set forth above.

Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has stated that a package containing a copy of the application and declaration was mailed to the inventor at his last known address, and that the packaged was returned. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the inventor. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

Regarding Serge Poilly, applicant lacks item (1), as set forth above.

Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has stated that a package containing a copy of the application and declaration was mailed to the inventor at his

last known address, and that the packaged was returned. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the inventor. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of :
George Dallas, Benoit Rollet, :
Christophe Meisch and Serge : DECISION GRANTING PETITION
Pouilly : UNDER 37 CFR 1.47(a)
Application No. 10/875,290 :
Filed: June 25, 2004
For: CABLE ELEMENT HAVING
REPOSITIONABLE PRESSURE
SENSITIVE ADHESIVE TO COUPLE
BUFFER TUBES TO A CENTRAL
STRENGTH MEMBER

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed January 14, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application, or cannot be reached.

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 address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2800 for examination *in due course*.

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

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

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OFFICE OF PETITIONS

GEORGE DALLAS
1445 33RD AVENUE, N.E.
HICKORY, NC 28601

In re Application of
George Dallas, Benoit Rollet, Christophe Meisch and
Serge Pouilly
Application No. 10/875,290
Filed: June 25, 2004
For: CABLE ELEMENT HAVING REPOSITIONABLE PRESSURE SENSITIVE ADHESIVE TO COUPLE BUFFER TUBES TO A CENTRAL STRENGTH MEMBER

Dear GEORGE DALLAS:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
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UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHE MEISCH
1504 LAZENBY STREET
NEWTON, NC 28658

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FEB 02 2005

OFFICE OF PETITIONS

In re Application of
George Dallas, Benoit Rollet, Christophe Meisch and Serge Pouilly
Application No. 10/875,290
Filed: June 25, 2004
For: CABLE ELEMENT HAVING REPOSITIONABLE PRESSURE SENSITIVE ADHESIVE TO COUPLE BUFFER TUBES TO A CENTRAL STRENGTH MEMBER

Dear CHRISTOPHE MEISCH:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

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SERGE POUILLY
515 23RD AVENUE, N.E.
HICKORY, NC 28601

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OFFICE OF PETITIONS

In re Application of
George Dallas, Benoit Rollet, Christophe Meisch and Serge Pouilly
Application No. 10/875,290
Filed: June 25, 2004
For: CABLE ELEMENT HAVING REPOSITIONABLE PRESSURE SENSITIVE ADHESIVE TO COUPLE BUFFER TUBES TO A CENTRAL STRENGTH MEMBER

Dear SERGE POUILLY:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

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

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FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of
Roger Guevremont, et al.
Application No. 10/875,291
Filed: June 25, 2004
Attorney Docket No. 151-18 US

DECISION ON PETITION

This is a decision on the petition filed September 2, 2004, requesting that the above-identified application be accorded a filing date of June 25, 2004.

The application was deposited on June 25, 2004. However, on August 20, 2004, Initial Patent Examination Division mailed a Notice stating that a filing date had not been accorded to the application papers since the application was deposited without drawings.

In response, on September 2, 2004, the present petition and requisite petition fee were filed. Petitioner argues that seventeen (17) pages of drawings were included with the application papers deposited on June 25, 2004. As evidence thereof, petitioner submits a copy of the postcard receipt which acknowledges receipt of ""Drawings 17 pages" on June 25, 2004. Petitioner requests that the application, including the seventeen (17) pages of drawings, be accorded a filing date of June 25, 2004. A copy of the seventeen (17) sheets of drawings accompanied the petition.

A review of the application file failed to uncover any sheets of drawings among the application papers deposited June 25, 2004. However, the evidence is convincing that the application papers deposited on June 25, 2004 included seventeen (17) sheets of drawings which were subsequently misplaced in the PTO. Therefore, the application was complete on filing and entitled to a filing date of April 16, 2004.

In view of the above, the petition is granted. The seventeen (17) sheets of drawings submitted with the petition will be used for examination purposes.

The Notice mailed August 20, 2004, was sent in error and is hereby vacated. Since the petition was a result of PTO error, the $130.00 petition fee is being refunded to counsel's deposit account No. 50-1142.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of June 25, 2004, using the application papers filed June 25, 2004 and the seventeen (17) sheets of drawings filed September 2, 2004, and an indication on the bibliographic data sheet that (17) sheets of drawings were included on filing.

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

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

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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9
CANADA

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
NAMESPETRA et al. :
Application No. 10/875,297 : ON APPLICATION FOR
Filed: 06/25/2004 : PATENT TERM ADJUSTMENT
Atty. Docket No. PAT 846AW-2 US :

This is in response to the Request for Reconsideration of PTA under 37 C.F.R. 1.705(b) filed February 19, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand two hundred thirty-four (1234) days, not eight hundred fifty-one (851) 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]

---

[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.

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Wataru Katsurashima
Application No. 10/875,301
Filed: June 25, 2004
Attorney Docket No. **Q82308**

DECISION ON PETITION

This is a decision on the petition filed January 16, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned on December 11, 2007, for failure to file a timely response to the Final Office Action mailed September 10, 2007 which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed January 9, 2008.

Petitioner argues that the period for response with a 3 month extension of time does not lapse until March 10, 2008.

Under the provisions of 37 CFR 1.136(a), an extension of time up to three months could be obtained making the response due date not later than March 10, 2008 as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

In view thereof, the Notice of Abandonment was sent in error and is hereby withdrawn. No fee for the petition to withdraw the holding of abandonment is due and none has been charged.

This application is being forwarded to Technology Center 2167 to await the filing of a response to the September 10, 2007 Final Office Action.

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Bradley J. Howard	: DECISION ON REQUEST FOR
Patent Number	: 7615164	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,330	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **243** 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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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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NOV 0 5 2004
Technology Center 2100

In re Application of:
Thomas C. SAVELL, et al.
Application No. 10/875,338
Filed: June 23, 2004
For: METHOD AND CIRCUIT TO IMPLEMENT DIGITAL DELAY LINES

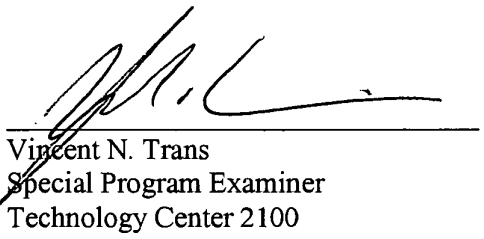
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 24, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



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

cc: Schwegman, Lundberg, Woesnner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexander Quillin Tilson
143 Loma Vista Dr.
Burlingame CA 94010

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APR 22 2008

OFFICE OF PETITIONS

In re Application of :
Alexander Q. **TILSON** et al. :
Application No. 10/875,363 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. 577582000100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 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 March 02, 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 above-identified application became abandoned on June 03, 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 Continuation, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525.00 extension of time fee submitted with the petition on December 19, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number: 03-1952.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is a gain abandoned in favor of continuing application No. 11/960,632.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099

for David A. Bucci
Petitions Examiner
Office of Petitions

cc:
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018

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Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of :
Alexander Q. Tilson et al. :
Application No. 10/875,363 : DECISION ON PETITION
Filed: June 23, 2004 : TO WITHDRAW
Attorney Docket No. 11339-007002 : 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 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 David J. Goren and all attorneys/agents of record have been revoked by the assignee of the patent application on February 2, 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: Alexander Quillin Tilson
143 Loma Vista Drive
Burlingame, CA 94010

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AUG 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

STEVEN HOROWITZ
COUNSEL AT LAW
295 Madison Avenue
Suite 700
New York, NY 10017

In re application of : **DECISION ON PETITION**
Yevgeny Antonovsky : **TO MAKE SPECIAL**
Application No. 10/875,375 : **(APPLICANT'S AGE)**
Filed: June 23, 2004 :
For: AIR CYLINDER WITH HIGH FREQUENCY SHOCK ABSORBER AND ACCELERATOR

This is a decision on the petition submitted on June 23, 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. Antonovsky 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: 8/23/04

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FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

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OFFICE OF PETITIONS

In re Application of
Gagnon
Application No. 10/875,408
Filed: June 24, 2004
Attorney Docket No. WAY.P.US0089

Decision on Petition

This is a decision on the petition filed October 14, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 5 of the specification was part of the originally filed application.

The application was filed on June 24, 2004. On September 22, 2004, a Notice was mailed stating that page 5 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 5 was deposited on June 24, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 17 pages of specification, claims, and abstract on June 24, 2004.[1]

The USPTO file for this application includes only 12 pages of specification, 3 pages of claims, and 1 page of abstract for a total of 17 pages. The file does not include page 5 of the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but were later misplaced. Therefore, the petition is **granted**.

The petition fee of $130 will be credited to the deposit account number listed in the petition.

The Notice mailed September 22, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of June 24, 2004, using the application papers filed on June 24, 2004, and the copy of page 5 of the specification filed on October 14, 2004.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1-13-05 | 2 Serial/Patent # 10/875,408

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	IFW	10-14-04	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 18--0987

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Proves we lost papers

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Steven Brantley TITLE: Petitions Atty

SIGNATURE: [signature] PHONE: 272-3203

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Keller DATE: 1/14/05

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)

Repln. Ref: 01/[illegible]/005 AKELLEY 00080[illegible]
DAN:180987 Name/number:10875408
FC: 9204 $130.00 OK

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Technology Center 2100

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

In re Application of: ASAMI et al.
Application No. 10/875,426
Filed: June 23, 2004
For: STORAGE AREA MANAGEMENT METHOD AND 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 10 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 10 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. Some of the limitations purporting to distinguish independent claims 1 and 7 from each reference do not appear to be in these claims. Claims 1 and 7 fail to require "using detected operational status of the application programs and extracting the storage area ID of a storage area to be assigned to each application program based on operational status of the application program" (emphasis added). Additionally, or perhaps alternatively, the statement purporting to distinguish claims 1 and 7 from each reference is unclear. The statement recites "using detected operational status of the application programs and extracting the storage area ID of a storage area to be assigned to each application program based on operational status of the application program". However, it is not clear what is meant by "based on operational status of the application program". The phrase at best appears to be redundant.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

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

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

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

ds

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

In re Application of: ASAMI, et al.
Application No. 10/875,426
Filed: June 23, 2004
For: STORAGE AREA MANAGEMENT METHOD AND SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the renewed petition filed 26 October 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 10 August 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 26 October 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. 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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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013-1024

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AUG 0 4 2008

In re Application of	:	
DIFIORE, Attilio	:	
Application No. 10/875,454	:	DECISION ON PETITION
Filed: June 24, 2004	:	TO WITHDRAW
Attorney Docket No. 1016720004P3	:	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 5, 2008.

The request is DISMISSED 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 May 16, 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: RUTAN & TUCKER, LLP.
611 ANTON BLVD, SUITE 1400
COSTA MESA CA 92626

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OFFICE OF PETITIONS

Russell Culbertson
The Culbertson Group, P.C.
1114 Lost Creek Boulevard
Suite 420
Austin, TX 78746

In re Application of	:	
Mark J. Ansier et al.	:	
Application No. 10/875,463	:	DECISION ON PETITION
Filed: June 24, 2004	:	TO WITHDRAW
Attorney Docket No. 910.1008	:	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 26, 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 Russell D. Colbertson and all attorneys/agents of record have been revoked by the assignee of the patent application on January 9, 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 above-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: Vedder Price P.C.
222 N. LaSalle Street
Chicago, IL 60601

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

In re Application of :
Knopp, et al. : DECISION ON PETITION
Application No. 10/875,472 :
Filed: June 23, 2004 :
Atty. Dkt. No.: 10191/3832 :

This decision is in response to the petition under 37 CFR 1.10, filed August 7, 2006, to accord the above-identified application a filing date of June 23, 2004.

Petitioners allege that the instant application was deposited in Express Mail service on June 23, 2004. As supporting evidence, petitioners have provided a copy of an Express Mail label bearing tracking number EV323023422US (the same Express Mail number found on the application papers located in the official file) and a "date-in" of June 23, 2004.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of June 23, 2004 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 23, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Robert E. LeChevalier :
Application No. 10/875,489 :
Filed: June 23, 2004 : ON PETITION
Attorney Docket No. :
423110 :

This is a decision in response to the Petition to Correct Filing Date Under 37 CFR 1.10, filed September 1, 2004, requesting the application be accorded a filing date of June 23, 2004, instead of the presently accorded filing date of June 25, 2004.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on June 23, 2004. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV386826451US. A review of the Express Mail label, No. EV386826451US, reveals that the "Date In" indicated on the Express Mail label is June 23, 2004. Moreover, the Express Mail label contains a United States Postal Service (USPS) stamp, also dated June 23, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. A refund of the petition fee has been credited to deposit account 12-0600.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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Amir H. Behnia
John A. Doninger, Esquire
DART INDUSTRIES INC.
P. O. Box 779001
Orlando, FL 32877-9001

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In re Application of De Groote :
Application No. 10/875,495 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 131108-M200 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed January 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 19, 2006.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision and will issue the application as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 02-16-05

DATE : 1/11/05

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction on Patent No.: 6783318

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

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:

Kathy Matecki

KATHY MATECKI
~~SUPERVISORY PATENT EXAMINER~~
TECHNOLOGY CENTER 3600

SPE — 3651 **Art Unit**

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THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA CA 90404

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OFFICE OF PETITIONS

In re Application of :
Mark Joseph Huber :
Application No. 10/875,541 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 54317-021301

This is a decision on the "Petition To Correct Filing Date", filed June 13, 2001. The petition requests that the above-identified application be accorded a filing date of June 23, 2004, rather than the presently accorded filing date of June 24, 2004. The petition is treated under 37 CFR 1.10(c).

The petition is **DISMISSED**.

Petitioner alleges that the application was deposited in Express Mail service on June 23, 2004. In support, petitioner supplied a copy of Express Mail receipt No. EV311276101US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" shown on the Express Mail customer label, however, is illegible.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition lacks the showing required by item (3).

In regards to paragraph (3) above, petitioner must submit a true copy of the "Express Mail" mailing label showing the "date-in" and any other official notation by the USPS relied upon to show the date of deposit. The "date-in" is illegible, however, on the copy of the "Express Mail" mailing label submitted by petitioners. The date-in appears to be marked over and it cannot be determined whether the date is the 23rd or the 24th. Petitioners must supply a copy of the "Express Mail" mailing label clearly showing the "date-in" or any other official notation by the USPS. Alternatively, petitioners may submit official documentation obtained directly from the USPS confirming that the Express Mail mailing was deposited in Express Mail service on the alleged mailing date.

A petition fee in the amount of $400.00 has been charged to deposit account no. 50-2638.

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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C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA CA 90404

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OFFICE OF PETITIONS

In re Application of :
Mark Joseph Huber :
Application No. 10/875,541 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. 54317-021301

This is a decision on the "Renewed Petition To Correct Filing Date", filed November 21, 2005. The petition requests that the above-identified application be accorded a filing date of June 23, 2004, rather than the presently accorded filing date of June 24, 2004. The petition is treated under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail service on June 23, 2004. In support, with a petition filed June 13, 2005, petitioner supplied a copy of Express Mail receipt No. EV311276101US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file), however the "date-in" shown on the Express Mail customer label, was illegible and thus, the petition was dismissed in a decision mailed September 30, 2005.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

In response to the deficiency found in the "Express Mail" label provided with the June 13, 2005 petition and as noted in the decision dismissing that petition, petitioners have provided a copy of a the tracking report printed from the USPS Internet Track & Confirm and database which shows that a mailing bearing Express Mail Label No. EV311276101US was accepted on June 23, 2004.

In view of the above, the petition is **GRANTED** and the $400 petition fee, previously charged to petitioner's deposit account on June 13, 2005 will be credited back to deposit account no. 50-2638.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to June 23, 2005** and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

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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DOCKET ADMINISTRATOR
LUCENT TECHNOLOGIES INC.
ROOM 2F-192
600-700 MOUNTAIN AVENUE
MURRAY HILL NJ 07974-0636

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/875,553 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 2-3-30 :

This is a decision on the renewed petition, filed June 30, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed November 27, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 26, 2008.

Petitioner asserts that the Office action dated November 27, 2007 was not received. Petitioner has provided a docket report showing all communication received with a date of November 27, 2007 and a complete docketing history for the application in question.

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. 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 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. Items (1) and (3) have not been satisfied.

As to item (1), petitioner needs to describe the "ALF" system used for recording Office actions and establish that the system was sufficiently reliable.

As to item (3), petitioner should provide a copy of a master docket, where the non received Office action would have been entered. 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 master exists petitioner should states so. If no master docket exists petitioner should provide file jacket, incoming mail log; calendar and reminder system. Any of these documents will support the already submitted individual docket record. If petitioner cannot supplement the evidence already presented, petitioner should consider filing a petition under 37 CFR 1.137(b).

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

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

By 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

Docket Administrator - Room 2F-192
Alcatel-Lucent USA Inc.
600-700 Mountain Avenue
Murray Hill NJ 07974

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In re Application of :
Chen et al. :
Application No. 10/875,553 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 2-3-30 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on November 27, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 28, 2008. A Notice of Abandonment was mailed on June 26, 2008.

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

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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JUN 07 2005

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
Soo-Min Kwak et al :
Application No. 10/875,558 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 041993-5384 :

This is a decision on the petition, filed June 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 12, 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]

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

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

---

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

The examiner of Technology Center AU 3751 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

cc:
HELLER EHRMAN
1717 RHODE ISLAND AVENUE, N.W.
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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APR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Sang Rae Kim	:	
Application No. 10/875,567	:	DECISION ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No. 049128-5155	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed March 5, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 6, 2008. A Notice of Abandonment was mailed October 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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Petitioner's request for change of power of attorney is not accepted as petitioner has not fully complied with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to

act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. As to item (2) listed above, petitioner has failed to include the Chain of Title from the inventor information as well as the proper Reel and Frame information.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 2629 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Eric J. Nuss
McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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25TH FLOOR
CHICAGO, IL 60606

MAILED JUN 26 2006

In re Application of
MCKENDRY ET AL.
Application No.: 10/875,610
Filed: June 23, 2004

: **DECISION ON**
: **PETITION TO**
: **MAKE SPECIAL**
:

This is a decision on the petition filed on June 5, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

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

A petition under MPEP § 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) 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 petition lacks items (2) and (5) above.

In regard to item (2), petitioner has not indicated whether all the claims are directed to a single invention or provided a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so.

In regard to item (5), the discussion of references by petitioner does not point out the language in the claims that distinguishes them from the references as required by 37 CFR 1.111 (b) and (c) for all references cited. 37 CFR § 1.111 (b) states in part "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this

section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. In particular, petitioner has not provided translations of the pertinent portions of DE 1753146, which was considered an "X" reference by the European Patent Office (EPO). In addition, while a search by a foreign patent office meets the requirement of item (3) above, it does not fulfill the requirement of item (5) above, therefore, petitioner must provide a detailed discussion of all references listed on the EPO search report. The Nalgene GoCup ™ cited on the 1449 submitted on May 5, 2005 is also not discussed

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

Since the petition is dismissed, the application will be examined in its regular turn.

Petitioners may file a renewed petition, without fee, addressing the points raised above. 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 1.102." The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Any inquiry regarding this decision should be directed to Linda J. Sholl, Special Program Examiner, at (571) 272-4391.

Linda J. Sholl
Special Program Examiner
Technology Center 3700

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P.O. Box 1450
Alexandria, VA 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:
Hyoung-Ho Lee	: DECISION REFUSING
Application No. 10/875,612	: STATUS UNDER
Filed: June 25, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 312973-P0026	:
For: TEMPERATURE COMPENSATED SELF-REFRESH (TCSR) CIRCUIT HAVING A TEMPERATURE SENSOR LIMITER	:

This decision is in response to the petition under 37 CFR 1.47(b), filed January 11, 2005.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 25, 2004 without an executed oath or declaration. Accordingly, on August 11, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees and a surcharge for their late filing.

In response, on January 11, 2005, a request for a three month extension of time and required fee, filing fees, the surcharge, a copy of an executed In Service Invention Proposal signed by the non-signing inventor, Kyoung-Ho Lee, the petition fee, and the instant petition were filed. Attorney Yoon S. Ham signed the instant petition. Attorney Ham sets forth the last known address of Inventor Lee and states that an envelope addresed to Mr. Lee at his last known address was returned because the addressee had moved.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks items (1) and (2) set forth above.

As to item (1), applicant has not established that Mr. Lee cannot be reached. One returned envelope does not rise to the required showing of diligence. Where inability to find or reach a nonsigning inventor is alleged, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the nonsigning inventor.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, any inquiries of local telephone directory, or any extant national or regional registry, telegrams, searches of Internet databases, and documented inquiries of his last known employer etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

With respect to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing Mr. Lee's information, signed by the Rule 1.47 applicant on behalf of Mr. Lee is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

The representative should not sign in the inventor's signature block. Rather, petitioner should (1) create a new declaration that contains Mr. Lee's information and another entry for the representative of the corporation to sign or (2) submit a signed addendum to the declaration presented on January 11, 2005 in which the representative of the corporation presents his title and authority to sign on behalf of the corporation.

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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: MAYER, BROWN, ROWE & MAW LLP
INTELLECTUAL PROPERTY GROUP
1909 K STREET, N.W.
WASHINGTON, D.C. 20006-1101

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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of
Hyoung-Ho Lee
Application No. 10/875,612
Filed: June 25, 2004
Attorney Docket No. 312973-P0026
For: TEMPERATURE COMPENSATED SELF-REFRESH (TCSR) CIRCUIT HAVING A TEMPERATURE SENSOR LIMITER

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This decision is in response to the reconsideration petition under 37 CFR 1.47(b), filed July 5, 2005.

The petition is **GRANTED**.

The above-identified application was filed on June 25, 2004 without an executed oath or declaration. Accordingly, on August 11, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees and a surcharge for their late filing.

In response, on January 11, 2005, a request for a three month extension of time and required fee, filing fees, the surcharge, a copy of an executed In Service Invention Proposal signed by the non-signing inventor, Kyoung-Ho Lee, the petition fee, and a petition under 37 CFR 1.47(b) were filed. Attorney Yoon S. Ham signed the petition. Attorney Ham sets forth the last known address of Inventor Lee and states that an envelope addresed to Mr. Lee at his last known address was returned because the addressee had moved.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(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 was dismissed on February 22, 2005 for failure to establish that Mr. Lee could not be

reached after diligent effort and failure to submit an acceptable declaration.

The instant reconsideration petition was field on July 5, 2005 with a request for a three month extension of time and required fee. Petitioner has shown that the non-signing inventor cannot be located. Specifically, the declaration/statement of facts of Yong-Soo Har establishes that the inventor was mailed the application papers, but failed to respond to the request that he sign the declaration, that attempts to contact him through e-mail were fruitless, and that his last known employer does not know his whereabouts. In addition, petitioner has shown that Hynix Semiconductor, Inc. (Hynix) has a proprietary interest in the above-identified application with the copy of the In-Service Invention Proposal Agreement showing that the inventor had an obligation to assign any patent rights to Hynix. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 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.

After this decision is mailed, the above-identified application will be forwarded to Technology Center G.A.U. 2818 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KYOUNG-HO LEE
301-1003 DAECHANG APT.,
YULLYANG-DONG, SANGDANG-GU
CHEONGJU-SI, CHUNGCHEONGBUK-DO
360-210
KOREA

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OFFICE OF PETITIONS

In re Application of :
Kyoung-Ho Lee :
Application No. 10/875,612 :
Filed: June 25, 2004 :
Attorney Docket No. 312973-P0026 :
For: TEMPERATURE COMPENSATED SELF-REFRESH (TCSR) CIRCUIT HAVING A TEMPERATURE SENSOR LIMITER :

LETTER

Dear Mr. Lee:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR **1.47(b),** Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MAYER, BROWN, ROWE & MAW LLP
19 K STREET, N.W.
WASHINGTON, DC 20006

IFW

OIPE JC1699 NOV 01 2004 PATENT & TRADEMARK OFFICE

PETITION TO MAKE SPECIAL UNDER RULE 102(c)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Richard DeRosa and Robert Hockenberry
Serial No.: 10/875,639
Filed: 06/24/2004
For: **AIR DECONTAMINATION SYSTEM**

Group Art Unit: 1724
Examiner: UNKNOWN

PETITION GRANTED

PETITION TO MAKE SPECIAL

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

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22131-1450

Sir:

Pursuant to 37 C.F.R. §1.102(c), Applicant hereby petitions the Commissioner to make the subject application special so that it may be taken out of turn for immediate action.

Enclosed is:

(1) A Declaration of the co-inventor, Richard DeRosa, setting forth the fact that he believes the invention sought to be patented in this application constitutes an important new technology useful for countering terrorism specifically by protecting potential victims from harmful biological or chemical agents which may be dispersed as a result of a terrorist attack.

In view of the above, and the attached declaration, applicant requests that this Petition to Make Special be granted and the examination of the application be advanced.

Respectfully submitted,

BROUSE MCDOWELL

10-28-04
Date

Deron A. Cook Reg. No. 52,767
Attorney for Applicant
Brouse McDowell
388 S. Main Street, Ste. 500
Akron, Ohio 44311
Ph. 330.535.5711

#590392 v2

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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OCT 13 2006

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

In re Application of :	:
Laughlin et al.	:
Serial No.: 10/875,643	: PETITION TO MAKE SPECIAL
Filed: June 24, 2004	:
Attorney Docket No.: CWRU-P02-046	:

This is in response to applicants' petition filed May 24, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to applicant's Deposit Account No. 18-1945, as authorized. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

COPY MAILED

MAR 10 2006

OFFICE OF PETITIONS

In re Application of

Kato Shojiro

Application No. 10/875,655

Filed: June 23, 2004

Attorney Docket No. 8694.82USW1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 21, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 29, 2005, after it was believed that no response was received to the non-final Office action mailed June 28, 2005. The non-final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 3, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was mailed and transmitted via facsimile on October 28, 2005, along with a request for an extension of time within the first month. A copy of the amendment containing a certificate of transmission dated October 28, 2005, accompanied the petition.

Section 711.03(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 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 CFR 1.8).

Ms. Carla Mauch signed the certificate of transmission under 37 CFR 1.8, but no statement of personal knowledge from Ms. Mauch accompanied the petition. A copy of the facsimile transmission sheet noting that seven pages were transmitted to the USPTO main facsimile on October 28, 2005 accompanied the petition. The evidence is, therefore, convincing that the amendment was timely transmitted and lost by the Office.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded Technology Center 3700, GAU 3711, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of

Marc Khristo :

Application No. 10/875,658

: DECISION ON PETITION

Filed: June 24, 2004

:

Attorney Docket No. 02-6323-00100US

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 13, 2005, 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 April 14, 2005..

The amendment filed April 18, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 2654 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant	: Lu Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7577959	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,660	: OF WYETH
Filed	: 06/24/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16, 2006

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction on Patent No.: 6,988,446/Appl.10/875661

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

Notice of Allowance and Issue fee papers from S.N. 09/875,661 were inadverently placed in the file of application S.N. 10/875,661. Therefore, the request for issuing the above identified correction is hereby denied.

TIMOTHY SIMONE
PRIMARY EXAMINER
1761
Art Unit

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700
SPE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 28, 2006

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/875661 patent No.: 6,988,446

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: Notice of Allowance and Issue fee papers from S.N. 09/875,661 were inadvertently placed in the file of application S.N. 10/875,661. Therefore, the request for issuing the above identified correction is hereby denied.

TIMOTHY SIMONE
PRIMARY EXAMINER
3742

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wendy K. Marsh
McKee, Voorhees & Sease, PLC
801 Grand Avenue, Ste. 3200
Des Moines, IA 50309-2721

Date Mailed : February 25, 2008
Serial No. :10/875661
Patent No. :6,988,446 B2
Patent Issued :January 24, 2006
Title : PURIFIED NITRIC OXIDE SYNTHASE

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.

Respecting the alleged errors noted in your request, notice of allowance and Issue fee papers from S.N.09/87566 were inadvertently placed in the file of application S.N. 10/875,661. Therefore, the request for issuing the above identified correction is hereby denied.

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

Magdalene Talley
For Mary Diggs Supervisor
Decisions and Certificate
Of Correction Branch
(703) 308-9390 ext. 116 or 125
FAX 571-270-9942

MD/mt

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WYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P O BOX 9777
FEDERAL WAY, WA 98063

COPY MAILED

FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Pramod K. Gupta et al :
Application No. 10/875,666 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 CFR 1.48(a)
Attorney Docket No. 25168A :

This is a decision on the petition under 37 CFR 1.48(a), filed October 11, 2004, to delete previously named inventor Diane G. Holmstrom.

The petition is **dismissed**.

37 CFR 1.48(a) requires the following as a condition for accepting correction of inventorship in an application:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).
> [Emphasis supplied.]

The petition under 37 CFR 1.48(a) lacks items (3) and (5) above.

As noted in item (3), an oath or declaration executed by **each actual** inventor listing the entire inventive entity has not been submitted. As to item (5), Office assignment records disclose that an executed assignment to Weyerhaeuser Company from all the originally named inventors, including Diane G. Holmstrom, the inventor being deleted by this petition, was recorded on October 15, 2004. Accordingly, the petition lacks the written consent of

the assignee. Additionally, a 37 CFR 3.73(b) submission must be submitted to support the action by the assignee.

For the reasons stated above, the petition to correct the inventive entity under 37 CFR 1.48(a) cannot be granted.

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 Frances Hicks at (571) 272-3218.

Brian Hearn
Senior 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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WYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P O BOX 9777
FEDERAL WAY, WA 98063

COPY MAILED
MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Pramod K. Gupta et al :
Application No. 10/875,666 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 CFR 1.48(a)
Attorney Docket No. 25168A :

This is a decision on the renewed petition under 37 CFR 1.48(a), filed February 24, 2006, to delete previously named inventor Diane G. Holmstrom.

The petition is **granted**.

37 CFR 1.48(a) requires the following as a condition for accepting correction of inventorship in an application:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition complies with the above requirements. Accordingly, the inventorship of this nonprovisional application has been changed by the deletion of Diane G. Holmstrom. A corrected Filing Receipt which reflects this change accompanies this decision on petition.

Any questions concerning this matter may be directed to Frances Hicks at (571) 272-3218.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/875,666	06/24/2004	1661	770	25168A		15	1

CONFIRMATION NO. 2260

CORRECTED FILING RECEIPT

OC000000018919661

28624
WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P.O. BOX 9777
FEDERAL WAY, WA 98063

Date Mailed: 05/23/2006

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

Applicant(s)

Pramod K. Gupta, Federal Way, WA;
Bonnie Larson, Granite Falls, WA;
Doris Budworth, Puyallup, WA;

Power of Attorney:

John Crawford--19670
Gary Kindness--22178
Lee Johnson--22946
James Uhlir--25096
James Anable--26827
Dennis Shelton--26997
Ward Brown--28400
Jerald Nagae--29418
Paul Leuzzi III--29556
Philip Mann--30960

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/491,373 07/30/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/875,666

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and compositions for regrowth of cryopreserved conifer embryos

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Haruhiko Tabuchi et al :
Application No. 10/875,685 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 1075.1202D :

This is a decision on the petition, filed July 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 31, 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 2883 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX AZ 85004-2391

In re Application of :
Donald Brandes :
Application No. 10/875,708 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 CFR 1.78(a)(3)
Atty Docket No. 127512.00004 :

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120, 121, or 365(c) filed November 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application No. 10/101,549. This decision is made in light of the executed application data sheet (ADS) filed March 8, 2007.

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 where there is a question whether the delay was unintentional.

A reference to the prior-filed nonprovisional application has been included in an executed supplemental ADS filed March 8, 2007.

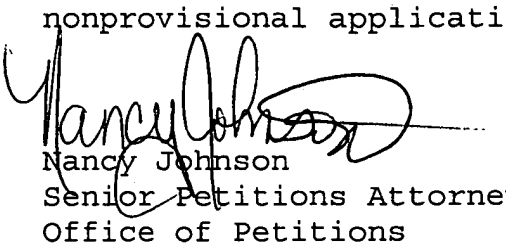
All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed application under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3637 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/875,708	06/24/2004	3637	582	127512.00004	6	6

CONFIRMATION NO. 9613

26707
QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX, AZ 85004-2391

CORRECTED FILING RECEIPT

OC000000022889097

Date Mailed: 03/14/2007

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

Applicant(s)

Donald J. Brandes, Phoenix, AZ;

Power of Attorney: The patent practitioners associated with Customer Number **26707**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,549 03/18/2002 PAT 6,796,093

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/875,708

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for assembling strong, lightweight thermal panel and insulated building structure

Preliminary Class

052

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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Franklin E. Gibbs, Esq.
Bigelow Aerospace
1899 W. Brooks Ave.
North Las Vegas, NV 89032

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NOV 22 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
William C. Schneider, et al.
Application No. 10/857,709
Filed: June 24, 2004
For: SPACECRAFT WINDOW ASSEMBLY

: DECISION ON PETITION
: TO MAKE SPECIAL
: (ENVIRONMENT) OR (ENERGY)
:

This is a decision on the petition filed on June 24, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

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

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicants' invention relates to a spacecraft window assembly for an inflatable modular human habitat. The "Modular Habitat" is to be deployed in space for the purposes of conducting research in numerous areas of science, and energy within the environment of space.

Applicants' petition includes a statement by applicants' attorney, Franklin E. Gibbs, Esq.

The thrust of applicants' petition is that the spacecraft window of applicants' invention "is instrumental in the deployment of a Modular Habitat in space for research into technologies that would reduce reliance on basic life sustaining natural elements and materially contribute to the utilization and conservation of energy sources. To that end, the spacecraft window assembly is

Copied from 10857709 on 12/23/2004

integral in the creation of the Modular Habitat and contributes to the aforementioned goals (statement by Mr. Gibbs, p.5)."

The statement by applicants' attorney is insufficient to grant either 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, or 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 VI: Energy. In this regard, petitioner's reasoning for granting either such petition is considered to be convoluted and tenuous, at best. Petitioner has failed to show a direct link between the spacecraft window assembly of the above-noted application and either a material enhancement in the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, or a material contribution to the utilization and conservation of energy sources.

The petition to make special based on Environmental Quality is **DISMISSED.**

The petition to make special based on Energy 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. 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 J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 11/15/04

Copied from 10857709 on 12/23/2004

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DEC 16 2004

TECHNOLOGY CENTER 3600

Mr. Franklin E. Gibbs, Esq.
Bigelow Aerospace
1899 W. Brooks Ave.
North Las Vegas, NV 89032

In re application of
Robert T. Bigelow
Application No. 10/875,710
Filed: June 24, 2004
For: ORBITAL DEBRIS SHIELD

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY) (OR ENERGY)

This is a decision on the petition submitted on June 24, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality or Section VI: Energy.

The petition to make special based on environmental quality is **DISMISSED**.

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

The petition states the invention will provides an opportunity for research in numerous areas of science which in turn could result in more effective treatments of numerous diseases and better treatment could reduce the need for hospital stays and the use of materials associated with those stays, and such decreased demand would reduce the need to use many of the life sustaining natural elements such as oxygen and water. It is also stated that research in space is expected to have a dramatic effect on the efficiency of combustion engines and dramatically improve the environment.

The petition does not directly relate how the invention is directed to the maintenance or restoration of one of the life sustaining elements. The invention is an orbital debris shield for a space station. There is no direct link between a space shield and maintenance or restoration of air water or soil.

The petition to make special based on energy is **DISMISSED.**

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must

be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that less energy is expended in making the materials not needed as discussed above.

Again, no direct link can be found between the invention and the more efficient utilization and conservation of energy resources.

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

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

SUMMARY: Petitions To Make Special **DISMISSED**

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

kjd:11/16/04

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Scott P. Zimmerman
P.O. Box 3822
Cary, NC 27519

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Zimba et al.	:	
Application No. 10/875712	:	ON PETITION
Filing Date: 06/24/2004	:	
Attorney Docket Number:	:	
BS01471CON	:	

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 November 17, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the final office action, mailed May 16, 2006. The Office action set a three (3) 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 August 17, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and RCE. A submission in the form of an amendment was filed on November 16, 2006. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2614 for processing of the RCE and amendment.

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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AT&T Legal Department
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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JAN 0 8 2009

In re Application of	:	
Zimba et al.	:	
Application No.: 10/875712	:	DECISION ON
Filing or 371(c) Date: 06/24/2004	:	PETITION
Attorney Docket Number: 01471 CON	:	

This is a decision in response to the Petition to Withdraw Holding of Abandonment, filed November 21, 2008. The petition is properly treated under 37 C.F.R. § 1.181(a).

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 17, 2008. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 18, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present Petition and asserts that a timely reply to the Office action was filed on July 11, 2008. In support of this assertion, Applicant includes a copy of the reply, along with a copy of an Auto-Reply Facsimile Transmission report from this Office acknowledging receipt of 11 pages from petitioner on July 11, 2008. A review of the copy of the Auto-Reply Facsimile Transmission report and the copy of the reply filed with the petition reveals that they include a Certificate of Transmission under 37 CFR 1.8 that the reply was sent on July 11, 2008. The Certificate of Transmission was executed by petitioner herein.

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 or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

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

Applicant has complied with the requirements of 37 CFR 1.8(b). A preponderance of the evidence demonstrates that the timely reply was filed.

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

The application will be referred to Technology Center Art Unit 2614 for processing of the Reply, and for continued examination in due course.

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

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

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OCT 29 2009

OFFICE OF PETITIONS

AT&T Legal Department - SZ
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

In re Application of	:	
Stephen P. Zimba et al.	:	DECISION REFUSING STATUS
Application No. 10/875,712	:	UNDER 37 CFR 1.47(a)
Filed: June 24, 2004	:	
Attorney Docket No. 01471 CON	:	

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

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

The declarations filed June 24, 2002 and August 9, 2004 are defective because an oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicated what each inventor believes to be appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration (by

combining the signature pages). See MPEP 605.04(a). Additionally, the declaration filed August 9, 2004 is defective because it fails to comply with 37 CFR 1.67(a)(1). See MPEP 603.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

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

David Bucci
Petitions Examiner
Office of Petitions

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AT&T Legal Department - SZ
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One AT&T Way
Bedminster NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Stephen P. Zimba et al.	:	DECISION GRANTING STATUS
Application No. 10/875,712	:	UNDER 37 CFR 1.47(a)
Filed: June 24, 2004	:	
Attorney Docket No. 01471 CON	:	

This is a decision on the petition filed, November 20, 2009, requesting reconsideration of a decision mailed October 29, 2009, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has now provided an acceptable oath or declaration as required under 37 CFR 1.47(a)(2).

The 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management for pre-examination processing.

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

David Bucci
Petitions Examiner
Office of Petitions

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Franklin E. Gibbs, Esq.
Bigelow Aerospace
1899 W. Brooks Ave.
North Las Vegas, NV. 89032

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of :
William C. Schneider et al :
Application No. 10/875,713 : DECISION ON PETITION
Filed: June 24, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. BA-U-MLB-00010 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c) (2)(i) and (ii), filed June 24, 2004, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P §708.02, Section V, and (b) materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(i) and MPEP § 708.02, Section V: Environment Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Petitioner argues that the invention would enhance the environment by permitting an unparalleled opportunity for people, institutions, governments, and business entities to participate in researching numerous areas of science within the environment of space. The instant petition fails to show the invention meets the materiality standard. Possible future use of the invention as the means of expanding research based does not contribute to the restoration or maintenance of basic life-sustaining natural elements. Improved communication per se, does not enhance the quality of the environment in a manner as to meet the materiality standard required.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

Petitioner submits that the instant invention is directed to improvement in the development of energy resources by allowing research in combustion science in the microgravity of space. Petitioner urges that this research is projected to have a dramatic effect on in combustion engines translating into less pollution in the environment. The instant petition fails to explain how the instant invention contributes in a significant, substantial or noticeable manner to conservation of energy. Recognition and/or knowledge of the ability to do research does not limit energy use per se, nor establish any development within the parameters of category (A). Regarding consideration of the petition for category (B), petitioner has not established that knowledge recognition by a user results in any decrease in energy use or consumption as a direct response to the said knowledge and as a result of efforts accruing from the claimed invention. Accordingly, it is unclear as to how the claimed invention would materially contribute to category (A) or (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 FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602.

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 3637 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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In re Application of	:	
William Houghton, et al	:	
Application No. 10/875,717	:	DECISION ON PETITION
Filed: June 25, 2004	:	TO WITHDRAW
Attorney Docket No. 06975-566001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6931043	2005-08-16	10875718	2004-06-25	14564-0011002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ James W. Babineau /	Date (YYYY-MM-DD)	2009-10-26
Name	James W. Babineau	Registration Number	42276

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6931043
Issue Date: August 16,2005
Application No. 10875718
Filed: June 25,2004
Attorney Docket No. 14564-011002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 26,2009 ,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 October 26,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTOR'S OFFICE

AUG 16 2007

TECHNOLOGY CENTER 3600

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON, DC 20001-4413

In re application of : **DECISION ON PETITION**
Friedrich Lindauer et al. : **TO MAKE SPECIAL**
Application No. 10/875,732 : **(ACCELERATED**
Filed: June 25, 2004 : **EXAMINATION)**
For: DATA PROCESSING SYSTEM AND METHOD: FOR TRANSMITTING OF PAYMENT ADVICE DATA

This is in response to the petition filed on August 22, 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 requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

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

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

Applicant should promptly submit a renewed petition to the Commissioner 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: 07/31/07

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 2 1 2007

TECHNOLOGY CENTER 3600

FINNERGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON, DC 20001-4413

In re application of : **DECISION ON PETITION**
Friedrich Lindauer et al. : **TO MAKE SPECIAL**
Application No. 10/875,732 : **(ACCELERATED**
Filed: June 25, 2004 : **EXAMINATION)**
For: DATA PROCESSING SYSTEM AND METHOD FOR TRANSMITTING OF PAYMENT ADVICE DATA

This is in response to the renewed petition filed on August 28, 2007 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/slb: 09/10/07

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ConocoPhillips Company - IP Services Group
Attention: DOCKETING
600 N. Dairy Ashford
Bldg. MA-1135
Houston, TX 77079

Mail Date: 04/20/2010

Applicant	: Anthony P. Eaton	: DECISION ON REQUEST FOR
Patent Number	: 7600395	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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UNIVERSITY OF NEBRASKA
ALEXANDER BUILDING – WEST
312 N 14TH STREET
P.O. BOX 880467
LINCOLN, NE 68588-0467

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Amitava Mitra et al :
Application No. 10/875,751 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 17, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 18, 2004.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Turan P. Odabasi
University of Nabraska
239 Varner Hall
Lincoln, NE 68583-0745

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARD A. SOKOLSKI
3868 CARSON STREET, 105
TORRANCE CA 90503

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SEP 22 2008
OFFICE OF PETITIONS

In re Application of :
Lee Pendleton MORGAN, et al :
Application No. 10/875,757 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 5366 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed January 18, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 19, 2008. *See* MPEP 1215.04.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received July 21, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Igor Volfman et al :
Application No. 10/875,760 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. P141-US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 17, 2006, which set a shortened statutory period for reply of 30 days. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 19, 2006 (September 16, 2006, the due date, was a Saturday). A Notice of Abandonment was mailed on March 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 an election, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of August 17, 2006 is 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 Technology Center AU 2886 for appropriate action in the normal course of business on the reply received March 21, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

FILE COPY

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/875,761	06/23/2004	2871	856	54317-022201	6	18	4

CONFIRMATION NO. 7841

CORRECTED FILING RECEIPT

OC000000014061518

ATTN: ROBERT E. KASODY, ESQ.
GREENBERG TRAURIG LLP
SUITE 400E
2450 COLORADO AVENUE
SANTA MONICA, CA 90404

Date Mailed: 10/13/2004

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)

Mark Huber, Burbank, CA;

Power of Attorney:

Jesse David Reingold--20461
Albert L. Jacobs Jr.--22211
Louis Bovasso--24075
Paul Sutton--24201
Charles Berman--29249
Christopher Darrow--30166
Gerard F. Diebner--31345
Eugene C. Rzucidlo--31900
Joseph M. Manak--33013
Mark Farley--33170

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/24/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/875,761

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Disappearing and appearing image of an object

Preliminary Class

349

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

GRANTED

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

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

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

NOT GRANTED

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

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AUG 30 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

In re application of
Argeo E. Limauro
Application No. 10/875,764
Filed: June 25, 2004
For: SCREEN FRAME REINFORCEMENT

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

This is a decision on the petition submitted on June 25, 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 Argeo E. Limauro indicating that he is at least 65 years of age.

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

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

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

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

SNM/dcg: 8/25/04

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COMMISSIONER FOR PATENTS
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Paper No. None

Constance Gall Rhebergen
Bracewell & Patterson LLP
PO Box 61389
Houston TX 77208-1389

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OFFICE OF PETITIONS

In re Application of
Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura
Application No. 10/875,765
Filed: June 23, 2004
Attorney Docket No. 27435.030
Title: ADDITIVE FOR HYDROCARBON FUEL AND RELATED PROCESS

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 15, 2004[2].

On June 23, 2004, the application was deposited without an executed declaration, identifying Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura as joint inventors. On August 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

With the instant petition, Petitioner has submitted the petition fee and surcharge, and a declaration which has been executed by the first two named joint inventors. Petitioner has set

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

2 The petition contains a certificate of mailing dated October 12, 2004.

forth that non-signing inventor Dadura is deceased, and that his son is the legal representative. Petitioner has included the last-known address for the legal representative. Petitioner has alleged that the legal representative orally refused to sign the declaration during a telephone conversation, but Petitioner has not indicated that a copy of the application was ever sent. As such, Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement, it does not appear that a complete copy of the application papers was sent to the legal representative of the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the Petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] Since the non-signing inventor is dead, the Office requires these materials to be sent to his legal representative. On renewed petition, it should be established that a complete copy of the application was sent to the legal representative of the non-signing inventor.

It follows that since it has not been shown that a complete copy of the application was sent to the legal representative of the non-signing inventor, one cannot refuse to sign something which one has not seen. A refusal by the legal representative of the non-signing inventor to sign an oath or declaration when the same has not been presented with the application papers does not itself suggest that he is refusing to join the application unless it is clear that he understands exactly what he is being asked to sign and refuses to accept the application papers. It is reasonable to require that the legal representative of the non-signing inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that he is apprised of the application to which the oath or declaration is directed[4].

For the above reasons, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and should include a declaration which has been executed in accordance with the procedure described in MPEP §409.01.

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

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3 See MPEP 409.03(d).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].
The application file will be retained in the Office of Petitions for two (2) months.

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

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

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

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

7 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Constance Gall Rhebergen
Bracewell & Patterson LLP
PO Box 61389
Houston TX 77208-1389

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APR 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Dwight Morrell Smith, Abdul R. Chughtai, :
and Jim Dadura :
Application No. 10/875,765 : DECISION ON RENEWED PETITION
Filed: June 23, 2004 : UNDER 37 C.F.R. §1.47(A)
Attorney Docket No. 27435.030 :
Title: ADDITIVE FOR HYDROCARBON :
FUEL AND RELATED PROCESS :

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed April 6, 2005[2].

On June 23, 2004, the application was deposited without an executed declaration, identifying Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura as joint inventors. On August 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

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

2 The petition contains a certificate of mailing dated April 4, 2005.

Copied from 10362410 on 09/22/2005

With the original petition, Petitioner submitted the petition fee and surcharge, and a declaration which has been executed by the first two named joint inventors. Petitioner has set forth that non-signing inventor Dadura is deceased, and that his son is the legal representative.

The original petition, submitted on October 15, 2004, was dismissed via the mailing of a decision on January 4, 2005, for failure to provide the legal representative of the non-signing inventor with a complete copy of the application.

With this renewed petition, Petitioner has submitted evidence which establishes that subsequent to receiving the decision on the original petition, she had a complete copy of the application mailed to the legal representative of the non-signing inventor. Petitioner has also filed a one-month extension of time to make timely this response.

It has been noted that the declaration submitted along with the original petition cannot be accepted, as it fails to list the non-signing inventor. Only the two signing inventors are listed on this declaration. As such, it makes sense that the legal representative of the non-signing inventor failed to execute the declaration when provided with the same, as there was nowhere for him to sign.

Therefore, this renewed petition must be **DISMISSED**.

Therefore, Petitioner will need to prepare a declaration which lists both the non-signing joint inventor and his legal representative. Petitioner will then need to mail a copy of this declaration to the legal representative of the non-signing inventor and provide him with ample time to respond. See MPEP 409.03(c).

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

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include either a statement that the new declaration was submitted to the legal representative but he has failed to respond, or an executed declaration along with a request for dismissal of the petition due to having achieved joinder. Either way, the petition should be accompanied by a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

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

Copied from 10362410 on 09/22/2005

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5]. **The application file will be retained in the Office of Petitions for two (2) months.**

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

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

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

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

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

Copied from 10362410 on 09/22/2005

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of
Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura
Application No. 10/875,765
Filed: June 23, 2004
Attorney Docket No. 27435.030
Title: ADDITIVE FOR HYDROCARBON FUEL AND RELATED PROCESS

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

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed September 9, 2005[2].

On June 23, 2004, the application was deposited without an executed declaration, identifying Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura as joint inventors. On August 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37

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

2 The petition contains a certificate of mailing dated September 7, 2005.

C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

With the original petition, Petitioner submitted the petition fee and surcharge, and a declaration which has been executed by the first two named joint inventors. Petitioner has set forth that non-signing inventor Dadura is deceased, and that his son is the legal representative.

The original petition, submitted on October 15, 2004, was dismissed via the mailing of a decision on January 4, 2005, for failure to provide the legal representative of the non-signing inventor with a complete copy of the application.

With the renewed petition, submitted on April 6, 2005, Petitioner submitted evidence which established that subsequent to receiving the decision on the original petition, she had a complete copy of the application mailed to the legal representative of the non-signing inventor. Petitioner also filed a one-month extension of time to make timely this response.

The decision was dismissed via the mailing of a decision on April 21, 2005, and set forth, on the second page of the decision:

It has been noted that the declaration submitted along with the original petition cannot be accepted, as it fails to list the non-signing inventor. Only the two signing inventors are listed on this declaration. As such, it makes sense that the legal representative of the non-signing inventor failed to execute the declaration when provided with the same, as there was nowhere for him to sign.

With this second renewed petition, Petitioner submitted a three-month extension of time, and proof that a complete copy of the application was sent to the legal representative of the deceased inventor, along with a declaration which contained his information. As such, the fourth requirement above has met.

However, as noted on page 2 of the decision on the renewed petition, "the declaration submitted along with the original petition cannot be accepted, as it fails to list the non-signing inventor," pursuant to MPEP 409.03(a)(A). Petitioner has prepared a declaration which lists both the non-signing joint inventor and his legal representative, and Petitioner has sent a copy of this declaration to the legal representative of the non-signing inventor. However, the signing inventors have not executed this declaration – the only declaration they have executed lists only themselves as inventors. In order for this application to be made by the signing inventors on behalf of themselves and the non-signing inventor, they will need to execute the declaration which lists all three inventors.

Therefore, this second renewed petition must be **DISMISSED**.

Petitioner should have Messrs. Smith and Chughati execute the declaration which was presented with this second renewed petition.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The response should be

accompanied by a cover letter entitled "Third Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

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

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

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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of
Dwight Morrell Smith and Abdul R. Chughtai
Application No. 10/875,765
Filed: June 23, 2004
Attorney Docket No. 27435.030
Title: ADDITIVE FOR HYDROCARBON FUEL AND RELATED PROCESS

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

This is in response to the third renewed petition under 37 C.F.R. §1.47(a)[1], filed December 20, 2005.

On June 23, 2004, the application was deposited without an executed declaration, identifying Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura as joint inventors. On August 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the original petition, Petitioner submitted the petition fee and surcharge, and a declaration which has been executed by the first two named joint inventors. Petitioner has set forth that non-signing inventor Dadura is deceased, and that his son is the legal representative.

The original petition, submitted on October 15, 2004, was dismissed via the mailing of a decision on January 4, 2005, for failure to provide the legal representative of the non-signing inventor with a complete copy of the application. The renewed petition was submitted on April 6, 2005, and was dismissed via the mailing of a decision on April 21, 2005. The second renewed petition was received on September 9, 2005, and was dismissed via the mailing of a decision on September 26, 2005. With this third renewed petition, Petitioner has included a one-month extension of time to make this response timely.

It has been noted that the previous decisions erroneously indicated that the declaration which was presented on October 15, 2004 with the original petition was acceptable. It has since been noted that the declaration which was submitted on October 15, 2004 fails to list the non-signing inventor as an inventive entity. The Office regrets this mistake.

The non-signing inventor does not appear on the declaration which was presented with the original petition. The declaration lists two inventors for this application, and Mr. Dadura is not one of them. Petitioner will note that pursuant to 37 C.F.R. §1.48(f)(1), inventorship is set by the first submission of an executed declaration. Petitioner may wish to consider submitting a fourth renewed petition, along with petitions under 37 C.F.R. §§1.48(a) to add Mr. Dadura and 1.183 to waive 1.48(a)(2), since it is clear that the legal representative of the deceased joint inventor will not cooperate. Petitioner will not need to submit a new declaration, as the declaration submitted with this third renewed petition is acceptable.

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

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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Paper No. None

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Houston TX 77208-1389

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APR 21 2006

OFFICE OF PETITIONS

In re Application of
Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura
Application No. 10/875,765
Filed: June 23, 2004
Attorney Docket No. 27435.030
Title: ADDITIVE FOR HYDROCARBON FUEL AND RELATED PROCESS

DECISION ON FOURTH RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AND PETITIONS UNDER 37 C.F.R. §§1.48 AND 1.183

This is in response to the fourth renewed petition under 37 C.F.R. §1.47(a)[1], as well as the petitions under 37 C.F.R. §§1.48 and 1.183, each concurrently filed on March 13, 2006[2].

On June 23, 2004, the application was deposited without an executed declaration, identifying Dwight Morrell Smith, Abdul R. Chughtai, and Jim Dadura as joint inventors. On August 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, as well as the surcharge associated with the late submission of an oath or declaration. This Notice set a two-month period for reply.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 It is noted that the petition contains a certificate of mailing dated March 10, 2006.

With the original petition, Petitioner submitted the petition fee and surcharge, and a declaration which has been executed by the first two named joint inventors. Petitioner has set forth that non-signing inventor Dadura is deceased, and that his son is the legal representative.

The original petition, submitted on October 15, 2004, was dismissed via the mailing of a decision on January 4, 2005, for failure to provide the legal representative of the non-signing inventor with a complete copy of the application. The renewed petition was submitted on April 6, 2005, and was dismissed via the mailing of a decision on April 21, 2005. The second renewed petition was received on September 9, 2005, and was dismissed via the mailing of a decision on September 26, 2005. The third renewed petition was submitted on December 20, 2005, along with a one-month extension of time to make this response timely. This petition was dismissed via the mailing of a decision on January 11, 2006.

The decision on the third renewed petition indicated that the requirements of 37 C.F.R. §1.47(a) had essentially been met, however it was noted that the declaration which was submitted with the original petition on October 15, 2004 failed to list the non-signing inventor as an inventive entity – as such, Petitioner inadvertently set the inventorship as Messrs. Smith and Chughtai, pursuant to 37 C.F.R. §1.48(f)(1).

Therefore, Petitioner has submitted petitions under 37 C.F.R. §§1.48(a) to add Mr. Dadura and 1.183 to waive 1.48(a)(2), since it is clear that the legal representative of the deceased joint inventor will not cooperate.

The petition under 37 C.F.R. §1.183:

The Petitioner has submitted the petition fee, which has been charged to Petitioner's deposit account, as authorized in the petition. Petitioner has also established that a diligent effort was undertaken to locate the legal representative of the non-signing inventor, the individual who is to be added as an inventive entity. The last known address of this legal representative has been previously provided.

37 C.F.R. §1.48(a)(2) sets forth that a statement is required "from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part." It has been determined that justice requires that the requirement that the Petitioner provide a statement from the legal representative of the person being added as an inventor be suspended.

As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(2) is hereby **WAIVED**, to the extent set forth above. Therefore, the signature of the legal representative for Mr. Dadura will not be required.

The petition under 37 C.F.R. §1.48(a):

With this petition, Petitioner has submitted a request to correct the inventorship that sets forth the desired change in the same, the processing fee (which has been charged to Petitioner's deposit account, as authorized in the renewed petition), and the written consent of the assignee. An

acceptable declaration has been previously submitted. As set forth above, the requirement that a statement be provided from the legal representative of the individual being added as an inventor has been waived.

Therefore, the petition under 37 C.F.R. §1.48(a) is **GRANTED**. Mr. Dadura will be listed as an inventor associated with the above-identified application.

The fourth renewed petition under 37 C.F.R. §1.47(a):

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

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

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

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

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2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of:
Horie
Application No. 10/875,771 : ON PETITION
Filed: June 25, 2004
Docket No.:2004-0808A

This application has been referred to this office in view of the petition filed October 25, 2004, requesting supervisory review under 37 CFR 1.181 from a holding of inadequacy of a prior reply. The delay in treating this matter is regretted.

The petition is **dismissed as moot**.

Petitioner requests review of the USPTO communication of October 15, 2004, which held that petitioner's reply of October 1, 2004, to the Notice of Missing parts mailed August 23, 2004, was incomplete. Petitioner notes that the supplied signed declaration, while lacking the signature of the named-albeit incapacitated- inventor, included the signature of his legal guardian, and as such was acceptable.

It is noted that subsequent to the filing of the instant petition, the USPTO expressly withdrew the contested communication of October 15, 2004, by way of the letter mailed March 10, 2005. Accordingly, there does not appear to remain any outstanding issue or petitionable matter for this office to consider.

This application is being referenced to the Technology Center for examination in due course.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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AUG 27 2007

OFFICE OF PETITIONS

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

In re Application of :
PEUKER, Karsten :
Application No. 10/875,788 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. **543822007500** : 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 09, 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 August 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PATTERSON & SHERIDAN, LLP**
Gero McClellan / Infineon / Qimonda
3040 POST OAK BLVD.,
SUITE 1500
HOUSTON, TX 77056

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JUL 13 2005

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

In re Application of:
Shuenn-Jyi Sheu
Serial No.: 10/875,812
Filed: June 25, 2004
Attorney Docket No.: 39844-204814

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on June 13, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed October 19, 2004.

A review of the file history shows that the examiner mailed an Office action to applicant on October 19, 2004, setting a one-month statutory time period for reply. On June 15, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that a response to the Office action was timely filed on November 19, 2004, as evidenced by a copy of the transmittal sheet showing submission of a response to a restriction order and a change of correspondences address and showing a USPTO date-stamped receipt of November 19, 2004.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for consideration of the response of November 19, 2004.

The petition fee of $1500.00 charged to Deposit Account No. 50-2518 on June 15, 2005 to revive an unintentionally abandoned application will be refunded.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 07/02/2010

Applicant	: Eric Georgeaux	: DECISION ON REQUEST FOR
Patent Number	: 7653016	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/875,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1559** 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
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Daniel Alan Rose	: DECISION ON REQUEST FOR
Patent Number	: 7627858	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,851	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT D. CRAWFORD
CIDRA CORPORATION
50 BARNES PARK NORTH
WALLINGFORD, CT 06492

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OFFICE OF PETITIONS

In re Application of :
Daniel L. Gysling et al :
Application No. 10/875,856 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. CC-0751 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 20, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on June 24, 2004, within twelve months of the filing date of the prior-filed provisional applications, Application Nos. 60/487,765 and 60/487,678, which were filed on July 15, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Moreover, the statute requires that the application claiming benefit of the earlier filing date under 35 U.S.C. 119(e) or 120 be filed by an inventor or inventors named in the previously filed application or provisional application.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No.50-0260.

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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petitions Examiner
Office of Petitions

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Robert D. Crawford
CiDRA Corporation
50 Barnes Park North
Wallingford CT 06492

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OFFICE OF PETITIONS

In re Application of
Gysling, et al.
Application No. 10/875,857
Filed: June 24, 2004
Attorney Docket No. **CC-0749**

ON PETITION

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

The petition under 37 CFR 1.78(a)(6) is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) are only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii).

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)

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

The petition under 37 CFR 1.78(a)(6) lacks item (1) above.

As to item (1), it is noted that the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) to the prior-filed provisional application includes an incorporation by reference statement incorporating the entire disclosure of prior-filed application. It is further noted that the subject application did not contain an incorporation by reference statement on filing in either the specification or application transmittal sheet that included application 60/580,081. The incorporation by reference statement included in the reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is improper as it seeks to include new matter in the application after filing. See 35 U.S.C. § 132. The reference required by 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i) is, therefore, made improper by the inclusion of the incorporation by reference statement.

Petitioner may wish to file a renewed petition under 37 CFR 1.78(a)(6) with a proper reference under 35 U.S.C. § 119 and 37 CFR § 1.78(a)(5)(i).

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 concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

/Frances Hicks/

Frances M. Hicks
Petitions Examiner
Office of Petitions

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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: 06/07/2010

Applicant	: Daniel L. Gysling	: DECISION ON REQUEST FOR
Patent Number	: 7623976	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/875,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **218** 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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PITTSFIELD MA 01201-3697

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel :
Kotabish, John Mariner, Andrew Macey,
Douglas Longworth, Timothy Hejl, and
Thomas Devan
Application No. 10/875,861 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 C.F.R. §1.47(b)
Title: COMPOSITE REFRACTORY METAL :
CARBIDE COATING ON A SUBSTRATE :
AND METHOD FOR MAKING THEREOF

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

The above-identified application was filed on June 24, 2004, identifying Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel Kotabish, John Mariner, Andrew Macey, Douglas Longworth, Timothy Hejl, and Thomas Devan as joint inventors. On August 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that the oath/declaration was missing, and further indicating that the surcharge associated with the late filing of the same and replacement drawings would be required. The notice set a two-month period for response.

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

On October 13, 2004, the instant petition was filed, along with the last known address of the non-signing inventor, a declaration which has been executed by each of the joint inventors save Mr. Devan, and the surcharge[2]. On November 12, 2004, the Office mailed a "Notice of Incomplete Reply," indicating that Petitioner had failed to submit the replacement drawings. This second notice did not extend the period for response.

On December 3, 2004, replacement drawings were received, along with a two-month extension of time.

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

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* No mention is made as to any search done for the non-signing inventor. There is no indication that Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address and to send the application papers to that address for consideration by the inventor[3]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[4].

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

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

On renewed petition, the petitioner should provide proof of either a diligent search or that the non-signing inventor refused to cooperate after having been provided with a complete copy of the application.

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

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2 The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

3 See MPEP 409.03(d).

4 See MPEP 409.03(d).

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

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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

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

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

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

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

7 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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OFFICE OF PETITIONS

In re Application of :
Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel :
Kotabish, John Mariner, Andrew Macey, :
Douglas Longworth, Timothy Hejl, and :
Thomas Devan :
Application No. 10/875,861 :
Filed: June 24, 2004 :
Title: COMPOSITE REFRACTORY METAL :
CARBIDE COATING ON A SUBSTRATE :
AND METHOD FOR MAKING THEREOF :

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

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

The above-identified application was filed on June 24, 2004, identifying Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel Kotabish, John Mariner, Andrew Macey, Douglas Longworth, Timothy Hejl, and Thomas Devan as joint inventors. On August 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, and further indicating that both the surcharge associated with the late filing of the same and replacement drawings would be required. The notice set a two-month period for response.

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

The original petition was filed on October 13, 2004, and was dismissed via the mailing of a decision on January 26, 2005, for failure to establish that a diligent effort was made to locate non-signing inventor Devan.

With the instant petition, Petitioner has included documents which evince that a search was conducted for the non-signing inventor. Petitioner has also asserted that the non-signing inventor was located and a copy of the "combined declaration and power of attorney as well as the assignment of the above-referenced patent application[2]" were sent to him. In order to establish joinder, Petitioner has included a declaration with this renewed petition which has been executed by the previously non-signing joint inventor.

It is obvious that the declaration Petitioner has submitted is not associated with the present application, as it contains the incorrect title, continuity information, and inventorship. As such, while it is clear that a declaration was sent to Mr. Devan, it does not appear that it was the correct declaration.

Since a complete copy of the application was not sent to the non-signing inventor, and since the declaration which was sent to him was the wrong declaration, the renewed petition under 37 C.F.R. §1.47(b) must again be **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 "Second Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor[3]. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

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

Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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

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2 It is noted that a complete copy of the application was not included in this package.

3 Petitioner will note that in order for this oath or declaration to be acceptable, it must be associated with application number 10/875,861.

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

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

6 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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

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

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OFFICE OF PETITIONS

In re Application of
Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel Kotabish, John Mariner, Andrew Macey, Douglas Longworth, Timothy Hejl, and Thomas Devan
Application No. 10/875,861
Filed: June 24, 2004
Title: COMPOSITE REFRACTORY METAL CARBIDE COATING ON A SUBSTRATE AND METHOD FOR MAKING THEREOF

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

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed June 27, 2005.

The above-identified application was filed on June 24, 2004, identifying Ajit Sane, Jeffrey Lennartz, Jon Leist, Daniel Kotabish, John Mariner, Andrew Macey, Douglas Longworth, Timothy Hejl, and Thomas Devan as joint inventors. On August 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, and further indicating that both the surcharge associated with the late filing of the same and replacement drawings would be required. The notice set a two-month period for response.

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

The original petition was filed on October 13, 2004, and was dismissed via the mailing of a decision on January 26, 2005, for failure to establish that a diligent effort was made to locate non-signing inventor Devan. The renewed petition was submitted on March 14, 2005, and was dismissed via the mailing of a decision on April 28, 2005 since the declaration which was sent to the non-signing inventor was not associated with this application.

With this renewed petition, an acceptable declaration has been submitted which has been executed by the formerly non-signing joint inventor. This declaration has been reviewed and found to be in compliance with 37 C.F.R. §1.63.

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

This second renewed petition is **DISMISSED AS MOOT**.

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

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

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GEAM - QUARTZ
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

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OCT 04 2007

OFFICE OF PETITIONS

In re Application of :
Ajit Sane et al :
Application No. 10/875,861 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. :
131821-2 (1302-280 Q)

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2007, to revive the above-identified application.

The petition is **DISMISSED** as moot since this application is not in fact abandoned.

A review of the file record discloses that, in reply to the final Office action of December 1, 2006, applicant filed a request for continued examination under 37 CFR 1.114 and an amendment. In a Notice of Non-Compliant Amendment mailed on March 16, 2007, the amendment was held to be non-compliant because "[t]he listing of claims does not include the text of all pending claims (including (withdrawn claims)." The Notice set a period of one month within which to reply, "if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment **(including a submission for a request for continued examination (RCE) under 37 CFR 1.114)**, a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action." which set a period for reply of one (1) month or thirty days, whichever is longer. As this application falls under "a non-final amendment (including a submission, extensions of time were available up to and including September 16, 2007. On August 13, 2007, a fee of $1,590 was received for a four month extension of time. Accordingly, as the reply and appropriate extension of time fee were timely received, this application is not in fact abandoned. Accordingly, the petition to revive is dismissed as involving a moot issue.

No fee has been assessed to the petition under 37 CFR 1.137(b).

This application is being referred to Technology Center AU 1775 for appropriate action in the normal course of business on the reply received August 9, 2007 and resubmitted on August 13, 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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Paper No. None

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Eric Horvitz :
Application No. 10/875,867 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: :
MS127739.03/MSFTP226USA :
Title: TRANSMITTING INFORMATION :
GIVEN CONSTRAINED RESOURCES :

This is a decision on the petition filed on July 26, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A Notice of Allowance and Issue Fee Due (first notice) was mailed June 30, 2005, and set a shortened statutory period for reply of three months. The issue and publication fees were received on July 7, 2005, along with form PTOL-85b. The present application was withdrawn from issue however, via the mailing of a notice (second notice) on August 4, 2005. The notice indicated that the issue fee could be applied towards payment of the issue fee on any subsequent Notice of Allowance and Issue Fee Due, upon written request. The electronic record does not appear to contain such a request. As such, the issue and

1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

publication fees were not applied to the present application after the mailing of the second Notice of Allowance and Issue Fee Due (third notice) on February 23, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees, along with form PTOL-85b in a timely manner in reply to the third notice of February 23, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on May 24, 2006. A Notice of Abandonment was mailed on June 27, 2006.

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 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 form PTOL-85b and a statement which is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

The present submission will be construed to constitute a written request to apply the previously submitted issue and publication fees.

Petitioner has requested that the fee associated with the filing of the present petition be waived. The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition[3]. As such, the required $1500 has been charged to Petitioner's Deposit Account, as authorized in the present petition.

The petition is **GRANTED.**

---

2 See MPEP §710.02(e).
3 35 USC §41(a)(7).

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

4 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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United States Patent and Trademark Office
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Yen-Fu Chen	: DECISION ON REQUEST FOR
Patent Number	: 7596596	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1216** 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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U.S. PATENT OPERATIONS/GPR
AMGEN INC.
DEPT. 4300, M/S 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of :
Joseph J. Nunes, et al. :
Application No. 10/875,896 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. A-832 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 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 11, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 12, 2007.

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

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

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received June 28, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of
Joseph J. Nunes, et al.
Application No. 10/875,896
Filed: June 23, 2004
Attorney Docket No. A-832

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2008. Accordingly, the date of abandonment of this application is July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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
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DEPT. 4300, M/S 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Joseph J. Nunes, et al. :
Application No. 10/875,896 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. A-832 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2008. Accordingly, the date of abandonment of this application is July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 31 2005

In re Application of :
GERSHIN. :
Serial Number: 10/875,910 : PETITION UNDER
Filed: June 24, 2004 : M.P.E.P. 708.02 III
For: PACKAGING MATERIAL, AND METHOD :
OF AND MACHINE FOR PRODUCING :
THE SAME

This is in response to the petition filed June 24, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 III of the MPEP and 37 CFR 1.102 (**no fee required**).

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

Accordingly the petition is **GRANTED.**

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

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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SEP 19 2007

OFFICE OF PETITIONS

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

In re Application of Gershin :
Application No. 10/875,910 : Decision on Petition
Filing Date: June 24, 2004 :
For: Packaging Material, And Method :
Of And Machine For Producing :
The Same :

This is a decision on the petition under 37 CFR 1.181, filed April 9, 2007, and supplemented April 12, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed May 26, 2006. The Office action set shortened statutory period for reply of three (3) months.

On December 14, 2006, petitioner filed a letter stating an amendment was filed on September 20, 2006, but does not appear to be of record as indicated by a status request. Petitioner also supplied a copy of the September 20, 2006 amendment. The amendment includes authorization for the Office to charge the fee for a one-month extension of time to petitioner's deposit account. The amendment bears a certificate of mailing dated September 20, 2006, which is before the due date of September 26, 2006 (due date after a one-month extension of time).

On December 14, 2006, the Office mailed a Notice of Abandonment.

The petition, as supplemented on April 12, 2007, states a reply was timely filed in response to the May 26, 2006 Office action and requests withdrawal of the holding of abandonment.

Discussion:

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b).

37 CFR 1.8(b) states,

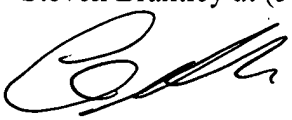
> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 26, 2006, is hereby withdrawn and the application restored to pending status.

The copy of the reply filed December 14, 2006, will be accepted in place of the reply originally mailed on September 20, 2006.

Technology Center Art Unit 1772 will be informed of the instant decision and the reply papers filed December 14, 2006, will be entered and considered by the examiner in due course.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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MAR 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Jae Chang Jung	:	
Application No. 10/875,912	:	DECISION GRANTING PETITION
Filed: June 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 30205/40193_US	:	

This is a decision on the petition, filed March 28, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Thorp Reed & Armstrong, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of :
Luis VON AHN ARELLANO :
Application No. 10/875,913 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. DB001133-001 : 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 December 15, 2005 and re-submitted July 12, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, transfer of responsibility to licensee, 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sabra-Anne R. Truesdale
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH, PA 15219-1425

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :
VON AHN ARELLANO, Luis :
Application No. 10/875,913 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. DB001133-001 : 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 **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 L. Pencoske on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: LUIS VON AHN ARELLANO
746 EAST END AVENUE, APT #1
PITTSBURGH, PA 15221

cc: GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

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270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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JUN 2 0 2007

OFFICE OF PETITIONS

In re Application of :
KIM, et al. :
Application No. 10/875,916 :
Filed: June 23, 2004 :
Attorney Docket No. **4611-040** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (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 Technology Center AU 2841 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Craig Pair	: DECISION ON REQUEST FOR
Patent Number	: 7640101	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1588** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN D. PIRNOT
ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DR.
FORT COLLINS CO 80525

COPY MAILED

OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Daniel B. Doran et al. :
Application No. 10/875,954 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. ADPL-004/US/AE2003-077 : 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 June 27, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Sean R. O'Dowd and attorneys/agents associated with customer number 22,903 and 58,249 do 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 above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Larry Williams, Ph.D.
3645 Montgomery Drive
Santa Rosa, CA 95405-5212

Cc: Cooley Godward LLP
Attention: Patent Group
The Bowen Building
875 15th Street, Ste. 800
Washington, DC 20005-2221

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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SEP 26 2008

OFFICE OF PETITIONS

In re Application of :
Harry Miller, Byong M. Shin, :
and Kwon Dong Chil :
Application No. 10/875,973 : DECISION ON PETITION UNDER
Filed: June 24, 2004 : 37 C.F.R. § 1.47(A)
Attorney Docket No. INCH-1-1016 :
Title: EXPANDABLE SHOE HAVING :
SCREW DRIVE ASSEMBLIES :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed September 17, 2008.

This petition is **DISMISSED**.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

On June 24, 2004, the application was filed, identifying Harry Miller, Byong M. Shin, and Kwon Dong Chil as joint inventors. The application was deposited without a fully executed declaration.

With this petition, Petitioner has included, *inter alia*, the petition fee, the last known address of this individual, an assertion that this individual cannot be located, and a declaration that has been signed by each of the joint inventors save Mr. Shin.

The fee that is associated with the late submission of this declaration will be charged to Petitioner's Deposit Account in due course.

Petitioner has met requirements (1) - (3) of 37 C.F.R. § 1.47(a).

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), Petitioner has asserted that the inventor cannot be reached via e-mail, facsimile transmission, or letter. Petitioner has set forth "all attempts to reach Mr. Shin have been undeliverable and, to the best of my knowledge, no other contact information is available."[1]

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As Petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* **The petition is silent as to any search that might have been performed for Mr. Shin.** There is no indication that the Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address, and to send the complete application papers to that address for consideration by the inventor.[2] Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, and the Internet. If this search is sufficiently broad so as to provide a reasonable chance at locating this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R.

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1 Brazier statement of facts, paragraph 5.
2 See MPEP 409.03(d).

§ 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Regarding the fifth requirement of Rule §1.47(a), **the declaration that Petitioner has submitted with this petition cannot be accepted**, as it fails to comply with 37 C.F.R. § 1.63(b)(3). Specifically, the statement pertaining to the acknowledgement of the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 C.F.R. § 1.56 contains a **temporal limitation**. Moreover, it is noted in passing that this required statement was set forth within a benefit claim.

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

Prior to filing any renewed Petitioner should:

- Prepare an acceptable declaration that contains a statement regarding the inventor's duties to disclose information that is material to patentability that both conforms to the requirements of 37 C.F.R. § 1.63(b)(3) and is separate from any benefit claim;
- Have the two signing inventors execute this supplemental declaration, and;
- Conduct a search for the non-signing inventor. If this individual is located, the relevant papers should be sent to this individual, and he should be given a reasonable period of time to respond.

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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DEC 10 2008

In re Application of	:	
Harry Miller, Byong M. Shin,	:	
and Kwon Dong Chil	:	
Application No. 10/875,973	:	DECISION ON RENEWED PETITION
Filed: June 24, 2004	:	PURSUANT TO
Attorney Docket No. INCH-1-1016	:	37 C.F.R. § 1.47(A)
Title: EXPANDABLE SHOE HAVING	:	
SCREW DRIVE ASSEMBLIES	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed November 7, 2008.

This renewed petition is **DISMISSED**.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

On June 24, 2004, the application was filed, identifying Harry Miller, Byong M. Shin, and Kwon Dong Chil as joint inventors. The application was deposited without a fully executed declaration.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on September 17, 2008, along with, *inter alia*, the petition fee, the fee that is associated with the late submission of the declaration, the last known address of Mr. Shin, an assertion that this individual cannot be located, and a declaration that has been signed by each of the joint inventors save Mr. Shin.

The original petition was dismissed via the mailing of a decision on September 26, 2008, which indicated that requirements (1) - (3) of 37 C.F.R. § 1.47(a) had been satisfied.

Regarding the failure to meet the fifth requirement of Rule 1.47(a), the Office has reconsidered its position on this matter. The declaration that was submitted on September 17, 2008 (a duplicate of which was filed with this renewed petition) is compliant with 37 C.F.R. § 1.63(b)(3). As such, the portion of the decision pertaining to the failure to meet this requirement and the requirement for a newly executed declaration is withdrawn.

On the third page of the decision on the original petition, it was indicated that prior to filing any renewed petition, Petitioner should:

> [c]onduct a search for the non-signing inventor. If this individual is located, the relevant papers should be sent to this individual, and he should be given a reasonable period of time to respond.

This renewed petition is silent as to any search that might have been performed for the non-signing inventor. Petitioner will note that sending e-mails, letters and facsimile transmissions, and placing telephone calls does not constitute a search. Petitioner may wish to review the final paragraph on page 2 of the decision on the original petition for guidance.

As of the mailing of this decision on the renewed petition, requirements (1) - (3) and (5) of Rule 1.47(a) have been satisfied.

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

Mail Date: 04/20/2010

Applicant	: Harry Miller	: DECISION ON REQUEST FOR
Patent Number	: 7581337	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/875,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
RITOLA, Timo et al. :
Application No. 10/875,974 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. **037145-3401 (NC44021US)** : 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** as 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 August 04, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert Stuart Scott
3725 Embassy Circle
Palm Harbor FL 34685

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AUG 2 9 2008

In re Application of	:	
Robert Stuart Scott	:	
Application No. 10/875,992	:	ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 4, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 24, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 25, 2005. The Notice of Abandonment was mailed September 9, 2005.

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

The required fee petition fee as set forth in 37 CFR 1.17(m) is $750 in which you paid only $250. A fee of $500 is due to the complete the filing of the petition.

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

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

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

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

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

Chris Bottorff
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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Robert Stuart Scott
3725 Embassy Circle
Palm Harbor FL 34685

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SEP 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Stuart Scott	:	
Application No. 10/875,992	:	ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 24, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 25, 2005. The Notice of Abandonment was mailed September 9, 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 amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 3711 for appropriate action the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

OIPE
SEP 04 2007
PATENT & TRADEMARK OFFICE

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: ROBERT STUART SCOTT

Application No.: 10/875992

Art Unit:

Filed: 6-25-04

Examiner:

Title: ALIGN-ASSURE by Golfmasters

Adjustment date: 09/18/2008 CKHLOK
09/10/2008 WABDELR1 00000027 10875992
01 FC:1999 -500.00 OP
Adjustment date: 09/18/2008 CKHLOK
09/05/2007 FMETEKI1 00000033 10875992
01 FC:2452 -250.00 OP
09/18/2008 CKHLOK 00000001 10875992
01 FC:2453 759.00 OP

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 $ 250. (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 $ 385.00. BASIC FILING FEE
☒ has been paid previously on 6-25-04.
☐ is enclosed herewith.

10875992 250.00 OP
09/05/2007 FMETEKI1 00000033
01 FC:2452

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.

OIPE IAP35
SEP 0 4 2007
PATENT & TRADEMARK OFFICE

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.

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.

Robert Stuart Scott — Signature

8-27-07 — Date

ROBERT STUART SCOTT — Typed or printed name

_____ — Registration Number, if applicable

3725 EMBASSY CIRCLE — Address

727-787-5701 — Telephone Number

PALM HARBOR, FL 34685 — 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

Robert Stuart Scott — Signature

ROBERT STUART SCOTT — Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Geun Su Lee	:	
Application No. 10/876,029	:	DECISION GRANTING PETITION
Filed: June 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 30005/40191	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 2, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 2 1 2008

In re Application of :
Federico Goodsaid, et. al. :
Application No. 10/876,046 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. 020174-010840US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement/Election, mailed November 27, 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 December 28, 2007.

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

In additional to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $2230 for a five month extension of time on June 13, 2008.

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 $2230 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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

Mail Date: 04/23/2010

Applicant	: Olaf Norbert Kirchner	: DECISION ON REQUEST FOR
Patent Number	: 7578950	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/876,075	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **345** 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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NORMAN FRIEDLAND
2855 PGA BOULEVARD
SUITE 200
PALM BEACH GARDENS FL 33410

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Matheny, et al. :
Application No. 10/876,081 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. N1086 :
For: DETACHABLE LEADING EDGE FOR AIRFOILS

This is a decision on the petition, filed July 16, 2007 (certificate of mailing date July 9, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within one month or thirty days (whichever was longer) of the mailing of the March 1, 2006 Notice of Non-Compliant Amendment (Notice). No response being received, this application became abandoned on April 2, 2006.

Applicants have submitted an amendment and sheet of drawings in reply to the March 1, 2006 Notice, a proper statement of the unintentional nature of the delay in responding to the March 1, 2006 Notice, and the $750.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3745 for consideration of the amendment and drawings filed on July 16, 2007 (certificate of mailing date July 9, 2007).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MORGAN, LEWIS & BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
Michael A. FURY, et al :
Application No. 10/876,087 : DECISION ON PETITION
Filed: June 23, 2004 : TO WITHDRAW
Attorney Docket No. 068835-0144US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 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 09629.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JAMES S. MCDONALD
101 MASSAPOAG AVE.
SHARON, MA 02067

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Craig Dean Campbell
1856 Colt Drive
Atlanta GA 30341

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of
Craig Dean Campbell
Application No. 10/876,098
Filed: August 29, 2002
Title: Connector

ON PETITION

This is in response to the communication, filed November 14, 2006, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On May 8, 2006, the Office mailed a Final Office action, which set a three month shortened statutory period to reply. The application became abandoned on August 9, 2006, for failure to submit a timely response to the May 8, 2006 Office action. On November 14, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the May 8, 2006 Office action. Specifically, petitioner states that the final Office action was never received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the May 8, 2006 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the

correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the 8, 2006 Office action of May 8, 2006, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after May 8, 2006, to demonstrate nonreceipt of the May 8, 2006 Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the May 8, 2006 Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after May 8, 2006; the period when he would have received the Office action.

In the present petition, petitioner did not submit any sufficient evidence, statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the May 8, 2006 Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. Petitioner has provided a copy of records received and correspondence sent to the USPTO. However, petitioner must address the other requirements presented above. Issues such as but not limited to, where and how does petitioner keep track of the due dates, does anyone else have access to mail, did petitioner inquire whether they saw the correspondence in question etc. A copy of the Office action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**[1];
>
> (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] It should be noted the fee will increase to $770.00 on September 30, 2007.

1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated May 8, 2006.

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/876,098	08/29/2002	Craig Dean Campbell		2849

7590 05/08/2006

Craig Dean Campbell
1856 Colt Drive
Atlanta, GA 30341

EXAMINER	
HEWITT, JAMES M	
ART UNIT	**PAPER NUMBER**
3679	

DATE MAILED: 05/08/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/876,098	CAMPBELL, CRAIG DEAN	
	Examiner	Art Unit	
	James M. Hewitt	3679	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☒ Responsive to communication(s) filed on *08 November 2005 and 27 February 2006*.

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

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

Disposition of Claims

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

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1* is/are rejected.

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

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The substitute specification filed 2/27/06 has been entered.

Claim

The following claim, drafted by the Examiner and acceptable to Applicant (see accompanying (*Examiner-Initiated Interview Summary* form), replaces the most recent version of the claim (as filed 2/27/06):

Claim 1: A connector for a sprinkler system that includes a sprinkler head, the connector comprising:

a U-shaped semi-flexible tubing adapted to retain its shape under force generated when the sprinkler is operational and adapted to be bent to adjust the water throw of the sprinkler head;

a female threaded pipe fitting attached at one end of said tubing;

a nut connected to the other end of said tubing, said nut adapted to be attached to the male threads of a water spigot, said nut permitting rotation of the tubing until said nut is torqued onto the water spigot; and

a gasket for producing a water seal at said other end of said tubing.

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being rejected by Mayer (US 3,704,035).

Mayer discloses a connector for a sprinkler system that includes a sprinkler head, the connector comprising: a U-shaped semi-flexible tubing (50) adapted to retain its shape under force generated when the sprinkler is operational and adapted to be bent to adjust the water throw of the sprinkler head (tubing 50 is made of aluminum, which is considered to be adapted to retain its shape under water pressure from a spigot when a sprinkler is operational and adapted to be bent, as it is ductile, to adjust the water throw of the sprinkler head); a female threaded pipe fitting (51) attached at one end of said tubing; a nut (other 51) connected to the other end of said tubing, said nut adapted to be attached to the male threads of a water spigot (the nut is adapted to be connected to male threads of a water spigot via its female threads), said nut permitting rotation of the tubing until said nut is torqued onto the water spigot; and a gasket (53/55) for producing a water seal at said other end of said tubing.

Note that regarding the recitation that the connector is "for sprinkler system that includes a sprinkler head", it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Note that regarding the recitation that the tubing is "adapted to retain its shape under force generated when the sprinkler is operational and adapted to be bent to adjust the water throw of the sprinkler head", it has been held that the recitation that an element is 'adapted to' perform a function is not a positive limitation but only requires the ability to so perform.

Note that regarding the recitation that the nut is "adapted to be attached to the male threads of a water spigot", it has been held that the recitation that an element is 'adapted to' perform a function is not a positive limitation but only requires the ability to so perform.

Note that regarding the functional limitation "said nut permitting rotation of the tubing until the nut is torqued onto the water spigot", as Applicant is not claiming a water spigot as part of his connector, Mayer's nut (51) is considered to meet this limitation insofar as his nut permits rotation of the tubing (50) until the tubing is assembled and attached as shown in FIG.2.

Response to Arguments

Applicant's arguments filed 11/8/05 with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached ***Notice of References Cited*** form.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

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.

This application may qualify for "Small Entity Status" and, therefore, applicant may be entitled to the payment of reduced fees. In order to establish small entity status for the purpose of paying small entity fees, applicant must make a determination of entitlement to small entity status under 37 CFR 1.27(f) and make an assertion of entitlement to small entity status in the manner set forth in 37 CFR 1.27(c)(1) or 37 CFR

1.27(c)(3). Accordingly, if applicant meets the requirements of 37 CFR 1.27(a), applicant must submit a written assertion of entitlement to small entity status under 37 CFR 1.27(c) before fees can be paid in the small entity amount. See 37 CFR 1.27(d). The assertion must be signed, clearly identifiable, and convey the concept of entitlement to small entity status. See 37 CFR 1.27(c)(1). No particular form is required.

Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. 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).

JAMES M. HEWITT
PRIMARY EXAMINER

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Craig Dean Campbell
1856 Colt Drive
Atlanta GA 30341

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Craig Campbell :
Application No. 10/876,098 : DECISION ON PETITION
Filed: August 29, 2002 :
Title: Connector :

This is a decision on the renewed petition, filed October 15, 2007 (supplemented November 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 May 8, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 14, 2006.

Petitioner asserts that the Office action dated May 8, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3679 for re-mailing the Office action of May 8, 2006. The period for reply will run from the mailing date of the Office action.

Charlema Grant
Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Brett Cowan et al. : DECISION ON PETITION
Application No. 10/876,101 :
Filed: June 24, 2004 :
Attorney Docket Number: **2003P09200US01** :

This is a decision on the petition under 37 CFR 1.137(a), filed June 23, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

A non-Final Office Action was mailed July 12, 2007. A response was due not later than October 12, 2007. A response in the form of an amendment was filed October 11, 2007 however, on October 19, 2007 the applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the October 19, 2007 Notice. No response having been filed, a Notice of Abandonment was mailed May 12, 2008.

Petitioner asserts unavoidable delay in responding to the Notice of Non-Compliant Amendment because of non-receipt of the Notice.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be

> met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

SHOWING OF UNAVOIDABLE DELAY

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

employees, the response is not timely received in the Office.[2]

Petitioner has not presented any evidence to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), as petition has not proven non-receipt.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was 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).

It should be noted that if petitioner chooses to file a petition under the unintentional standard the fees due would be $1620.00 for a large entity and $810.00 for a small entity and the fees submitted with the instant petition cannot be applied as petitioner has already received consideration under the unavoidable standard.

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

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

By mail: Mail Stop Petitions
Commissioner for Patents
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Alexandria VA 22313-1450

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
Dennis KUJAWSKI :
Application No. 10/876,102 :
Filed: June 24, 2004 :
Attorney Docket No. :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Anna-Lisa Gallo on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

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

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

cc: **DENNIS KUJAWSKI**
71 COPPENGOTE LANE
WARWICK, NY 10990

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
BARDY, Gust H. :
Application No. 10/876,118 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. **003.0413.US.DIV** : FROM RECORD
:

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

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

A review of the file record indicates that the power of attorney to CASCADIA INTELLECTUAL PROPERTY has been revoked by the assignee of the patent application on February 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Yasutaka Fujinuma	: DECISION ON REQUEST FOR
Patent Number	: 7649641	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1548** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

In re Patent No. 7,366,227 :
Issue Date: April 29, 2008 :
Application No. 10/876,160 : ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR1.183, filed September 24, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted; however, the petition was recently referred to the undersigned for consideration.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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TERADYNE, INC.
c/o FOLEY & LARDER, LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

Mail Date: 06/07/2010

Applicant	: Atsushi Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7161392	: RECALCULATION of PATENT
Issue Date	: 01/09/2007	: TERM ADJUSTMENT IN VIEW
Application No	: 10/876,161	: OF WYETH
Filed	: 06/23/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of Robertson et al. :
Application No. 10/876,171 : Decision on Petition
Filing Date: June 23, 2004 :
Attorney Docket No. 8742-009 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to file a proper reply reply to the final Office action mailed March 31, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 1, 2006. A Notice of Abandonment was mailed on October 11, 2006.

The instant petition requests revival of the application.

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

The Notice of Appeal filed November 3, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Petitioner submitted $510 for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the $510 has been credited to petitioner's deposit account.

Technology Center Art Unit 3671 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. None

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OFFICE OF PETITIONS

In re Application of :
Bryan Kingsford et al. :
Application No. 10/876,193 :
Filed: June 23, 2004 : DECISION ON PETITION
Attorney Docket No. SYMC1054 : UNDER 37 C.F.R. §1.137(B)
Title: CRITICALITY :
CLASSIFICATION SYSTEM AND :
METHOD :

This is a decision on the petition filed August 1, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed October 17, 2005, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 18, 2006.

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1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, the associated fee, and an amendment.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

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 RCE can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of
Sang-Wook Park
Application No. 10/876,209
Filed: June 23, 2004
Attorney Docket No. 51876.P660
For: Apparatus and Method for Duty Cycle Correction

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

This is in response to the petition under 37 CFR 1.47(b), filed January 19, 2005.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks items (1), (2), and (6)

As to item (1), petitioner has failed to prove that the inventor cannot be reached or located. After learning the inventor had moved from his old address, the Korean law firm contacted the assignee for a more current address and was informed the inventor no longer worked for the assignee. The assignee did not have a more current address for the inventor. The record fails to indicate the Korean law firm took any other steps to locate the inventor. Reasonable steps which can be taken to locate an inventor include, but are not limited to, contacting directory assistance for a phone number and performing an internet search for a new address. Additional steps should be taken to locate the inventor.

As to item (2), the record fails to show Hyun-Koo Choi has the right to sign the declaration on behalf the assignee. The declaration must be signed by someone with apparent authority to sign on behalf of the assignee or the petition must be accompanied by a statement that the person signing the declaration is authorized to act on behalf of the assignee. Individuals with apparent authority include officers of a corporation such as a President, Vice-President, Secretary, or Treasurer. The declaration states Choi is a "Senior Manager." The petition does not include a statement that Choi has the right to sign the declaration on behalf of the assignee. Petitioner may wish to file a statement verifying Choi has the right to sign on behalf of the assignee or submit a declaration by a party with apparent authority.

As to item (6), Rule 47 applicant has not provided 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
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Telephone inquiries concerning 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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
Sang-Wook Park
Application No. 10/876,209
Filed: June 23, 2004
Attorney Docket No. 51876.P660
For: Apparatus and Method for Duty Cycle Correction

DECISION ACCORDING STATUS UNDER UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 26, 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of

Sang Wook Park :

Application No. 10/876,209

: DECISION ON PETITION

Filed: June 23, 2004

:

Attorney Docket No. 51876P660

This is a decision on the petition under 37 CFR 1.137(b), filed, August 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 20, 2005.

The amendment filed August 24, 2006, is noted.

The application is being forwarded to Technology Center 2800, GAU 2816 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMANN & BARON LLP
69000 JERICHO TURNPIKE
SYOSSET, NY 11791-4407

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Jerry DONG :
Application No. 10/876,212 : DECISION ON PETITION TO
Filed: June 24, 2004 : WITHDRAW FROM RECORD
Attorney Docket No. **S63.2-14434-US01** :

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 18, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **HOFFMANN & BARON LLP** has been revoked by the assignee of the patent application on May 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: **VIDAS, ARRETT & STEINKRAUS, P.A.**
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Whitefoot, et al. :
Application No. 10/876,213 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. ABDT-0586/B030540 : 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 2, 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, "Client's Legal Department will prosecute this application", do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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: ABB INC.
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael I. Kroll
171 Stillwell Lane
Syosset NY 11791

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OFFICE OF PETITIONS

In re Patent No. 7,115,158
Issue Date: 10-03-2006
Application No. 10/876,221
Filed: 06-24-2004
Attorney Docket No. SL-1-AM

DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 28, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 26, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

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

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

This application matured into Patent No. 7,115,158 on October 30, 2006. Therefore, no further action is required.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Russell Culbertson
The Culbertson Group, P.C.
1114 Lost Creek Boulevard
Suite 420
Austin, TX 78746

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OFFICE OF PETITIONS

In re Application of

Mark J. Ansier et al.

Application No. 10/876,226
Filed: June 24, 2004
Attorney Docket No. 910-101D

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 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 Russell D. Colbertson and all attorneys/agents of record have been revoked by the assignee of the patent application on January 9, 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: Vedder Price P.C.
222 N. LaSalle Street
Chicago, IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE

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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 CHESTNUT STREET
ROCHESTER, NY 14604-2404

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OFFICE OF PETITIONS

In re Application of
Rajeev D. Joshi et al
Application No. 10/876,248
Filed: June 24, 2004
Attorney Docket No. 3016431 (17732.67110.00)

ON PETITION

This is a decision on the petition filed December 31, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 22, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 23, 2008.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Phil Libin	: DECISION ON REQUEST FOR
Patent Number	: 7660994	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,275	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1628** 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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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	:	
James R. Heath et al.	:	
Application No. 10/876,276	:	DECISION ON PETITION
Filed: June 23, 2004	:	TO WITHDRAW
Attorney Docket No. 020859-003710US	:	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 2, 2004.

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 David J. Goren and all attorneys/agents of record have been revoked by the assignee of the patent application on February 2, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot. Since the date of this petition attorneys with the firm of Townsend and Townsend have been appointed.

All future communications from the Office will be directed to the above-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

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Eddie Liao
M2 Networks, Inc.
2345 Adair Street
San Marino, CA 91108

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AUG 13 2008

In re Application of :
Dennis P. Connors :
Application No. 10/876,280 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. 73982 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 21, 2007. A Notice of Abandonment was mailed on May 6, 2008.

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

The Power of Attorney and Change of Correspondence Address filed along with the petition on June 23, 2008 is not acceptable. Compliance with 37 CFR must be satisfied. A 3.73(b) Statement under 37 CFR 3.73(b) setting forth reel and frame numbers and proper chain of title, must be submitted before the Office can accept and process the power of attorney. Therefore all future correspondence will continue to directed to the address above until the proper papers are submitted.

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

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received June 23, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Gary Lee Eastman
707 Broadway Street, Suite 1800
San Diego, CA 92101

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Technology Center 2100

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

In re Application of: SAIKA
Application No. 10/876,295
Filed: June 23, 2004
For: SYSTEM AND METHOD FOR FAILOVER

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 28 July 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

ds

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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SEP 30 2005

Technology Center 2100

In re Application of: NAKANISHI, et al.
Application No. 10/909,511
Filed: August 3, 2004
For: DATA PROCESSING APPARATUS AND DISK ACCESS CONTROL METHOD WITH DATA REPLICATION FOR THE SAME

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

This is a response to the petition filed 01 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

ds

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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Serhiy Feclorovich Petrenko :
Application No. 10/876,296 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 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 September 27, 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). The petition is not accompanied by the required reply. Accordingly, the date of abandonment of this application is December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2834 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

MAILED

JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of ZIMMER et al
Application No.: 10/876,298
Filing Date: June 24, 2004
For: USER-INTERFACE DESIGN

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed December 15, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

With respect to requirement (B), the petition does not state that Applicant will make an election without traverse if the Office determines that all claims are not obviously directed to a single invention. However, in a telephone communication with applicant's agent, Coe Miles (Reg. No. 38,559) on January 5, 2006, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a restriction requirement is made on the part of the USPTO.

Because the petition filed December 15, 2005 and the oral agreement on January 5, 2006 meet 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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Karl G. Hanson
2000 Lost Horse Road
Medina MN 55340-9756

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
Braun :
Application No. 10/876,302 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 9718 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2007 (certificate of mailing date February 21, 2007), 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 July 10, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 11, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and required fee and the submission required by 37 CFR 1.114; (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) 272-3230.

This application is being referred to Technology Center AU 3711 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

NOV 0 3 2005

Neil K. Nydegger
Nydegger & Associates
348 Olive Street
San Diego, California 92103

In re application of Richard J. Koerner et al Serial No. 10/876,306 Filed June 24, 2004	:	DECISION ON PETITION TO CORRECT INVENTORSHIP

This is in response to applicant's petition to correct inventorship filed on November 3, 2004 in connection with the above-identified application, to add Alvin B. Salinas as a co-inventor.

The petition has been found to comply with all of the requirements under 37 CFR 1.48(a).

Therefore, the petition is **GRANTED**.

Nicholas D. Lucchesi
Supervisory Patent Examiner
Art Unit 3763

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 506
RICHFIELD, OH 44286

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Pat Yananton	:	
Application No. 10/876,310	:	DECISION ON PETITION
Filed: June 24, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1712	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2007, 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 declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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 3643 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Pat Yananton :
Application No. 10/876,310 : DECISION ON PETITION
Filed: June 24, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1712 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2007, 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 declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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 3643 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 Kinross Lakes Parkway
Suite 275
RICHFIELD, OH 44286

Mail Date: 04/21/2010

Applicant	: Pat Yananton	: DECISION ON REQUEST FOR
Patent Number	: 7647890	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,310	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **72** 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 06/01/2010

Applicant	: Malome T. Khomo	: DECISION ON REQUEST FOR
Patent Number	: 7668375	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/876,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

DATA MASTERS (CANADA) LTD.
19 POGSON DRIVE
WHITBY ON L1R 2J1 CA CANADA

In re Application of
Williams
Application No. 10/876,321
Filed: June 25, 2004
For: METHOD AND SYSTEM FOR IMPROVING PERFORMANCE AND SCALABILITY OF APPLICATIONS THAT UTILIZE A FLOW-BASED-PROGRAMMING METHODOLOGY

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 26, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned May 29, 2008 for failure to timely submit a proper reply to the non-final Office action mailed January 28, 2008. The non-final Office action set a three month shortened statutory period of time for reply. A petition for one month extension of time pursuant to 37 CFR 1.136(a) was submitted on May 29, 2008. Notice of Abandonment was mailed December 19, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition fails to comply with (1) and (3) set forth above.

As to requirement (1), petitioner has not submitted a reply and requested that the reply filed May 29, 2008 be entered as the reply to the outstanding non-final Office action.

Any renewed petition must include a reply to the outstanding non-final Office action.

As to requirement (3), petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner seems to attribute the failure to timely submit a proper reply to the non-final Office action to the fact that the reply to the non-final Office action was received May 29, 2008, apparently six days after it was mailed via Canadian Post. Petitioner further states that "[w]ithout being aware the arrival date was outside the window, the May 29, 2008 transaction description "Request for Extension of Time - Granted" is misleading."

Petitioner's arguments have been carefully considered, but are not found convincing. A reply to the non-final Office action was due on or before April 28, 2008. A reply was received May 29, 2008. The reply included a petition for one month extension of time. The Notice of Non-Compliant Amendment, mailed July 11, 2008, advised applicant that the reply submitted May 29, 2008 required additional extension of time.

Since the extension of time submitted May 29, 2008 was submitted prior to the maximum extendable period for reply, the petition for extension of time was granted, extending the period of time for reply to May 28, 2009.

Correspondence sent to the USPTO is stamped with the date of receipt. *See*, 37 CFR 1.6. The actual date of receipt of the reply (May 29, 2008) establishes that the reply to the non-final Office action was untimely.

The evidence of record fails to establish that a reply to the non-final Office action was timely received by the UPSTO. Failure to submit a reply within sufficient time for it to arrive at the USPTO by a desired date is not unavoidable within the meaning of 37 CFR 1.137(a). Moreover, failure to submit the appropriate extension of time to reply to an outstanding Office action is not deemed unavoidable.

Any renewed petition must be accompanied by evidence to sufficiently establish that the entire period of delay in responding to the Notice was unavoidable.

Insofar as petitioner's request for information concerning "overnight delivery," see enclosed OG Notice.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire 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). The Director may require additional information where there is a question whether the delay was unintentional.

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

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

By facsimile: (571) 273-8300

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures

United States Patent and Trademark Office OG Notices: 01 February 2005

Relocation of Customer Service Windows for Patent-Related Correspondence; Establishment of Drop Box in South Tower for Certain Patent-Related Correspondence; Hand Carry and Mailing Address for Trademark-Related Correspondence

Effective January 14, 2005, a new Customer Service Window for patent-related correspondence will open at 8:30 a.m. at the USPTO Alexandria campus. The Customer Service Window (Lobby, Room 1B03) and the PCT Customer Service Window (8th floor) currently located at 220 20th Street South, Crystal Plaza Two, Arlington, VA 22202 will close at 12:00 midnight on January 13, 2005 and will be consolidated at the Alexandria campus.

Customer Service Window for Patent-Related Correspondence

The location for the new Customer Service Window is on the first floor of the south side of the Randolph Building, with street level access from Ballenger Avenue. The specific hand carry or delivery address is:

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

If the appropriate mail stop is known, the mail stop should also be included in the address. Documents for the Customer Service Window or the PCT Customer Service Window may be hand carried or delivered to the new Customer Service Window at the above Alexandria address on or after January 14, 2005. No application numbers will be assigned by window staff at the time of delivery. Hours of Operation will be 8:30 a.m. through 12 midnight, Monday through Friday, except holidays and if the USPTO is closed for inclement weather or an emergency.

Drop Box in South Tower for Certain Patent-Related Correspondence

Additionally, a satellite drop location will be established in the lobby of the South Tower building in Crystal City (2900 Crystal Drive, Arlington, Virginia), effective January 14, 2005. This location will not be staffed but will be monitored by the building guard. Applications and application-related papers may be left at this location during the hours of 8:30 a.m. and 7:00 p.m., Monday through Friday, except holidays and if the USPTO is closed for inclement weather or an emergency. The guard will not allow materials to be left except during those hours. No postcard receipts will be stamped at time of drop off, nor will the guard answer any processing questions. Materials will be retrieved periodically throughout the day and taken to the appropriate location for processing.

Other Information Regarding Patent-Related Correspondence

The new customer service window and new drop box must not be used for correspondence that is required to be mailed to post office boxes other than P.O. Box 1450, Alexandria, VA 22313-1450, filed by facsimile, filed electronically, or hand-delivered to a different address.

PCT customer service offices will provide file inspection for files located in PCT PALM locations. The PCT file inspection location is Room 4A22, 2900 Crystal Drive, Arlington, Virginia (South Tower). Customers should call 703-305-3165 in advance to make arrangements to inspect a file. Requests to inspect files located in OIPE PALM locations should be directed to the File Information Unit (FIU) at 703-308-2733. The FIU is located in Room 2E04, 2900 Crystal Drive, Arlington, Virginia (South Tower).

Patent-related correspondence sent through the United States Postal Service should continue to be directed to the addresses set forth in 37 CFR 1.1 (revised effective September 13, 2004) (e.g., P.O. Box 1450, Alexandria, VA 22313-1450).

Hand Delivery and Mailing Address for Trademark-Related Correspondence

Use of any patent boxes for trademark-related correspondence is strongly discouraged, and may result in delayed processing. Most trademark-related correspondence, including Madrid Protocol-related correspondence, may be filed electronically using the Trademark Electronic Application System (TEAS), at www.uspto.gov. The USPTO prefers that filers use TEAS where possible.

Trademark-related correspondence also may be hand-delivered to the Trademark Assistance Center (TAC) located at:

Trademark Assistance Center
James Madison Building - East Wing
Concourse Level
600 Dulany Street
Alexandria, VA 22314

Hand deliveries of Madrid Protocol-related correspondence should also include the notation "Attention: MPU".

Hours of operation for TAC are 8:30 a.m. - 5:00 p.m. Monday through Friday, except holidays or days the USPTO is closed for inclement weather or emergency.

Trademark-related correspondence sent through the United States Postal Service, except documents sent to the Assignment Services Division for recordation, requests for copies of trademark documents, and documents filed under the Madrid Protocol, should be mailed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Madrid Protocol-related documents sent through the United States Postal Service should be mailed to:

Commissioner for Trademarks
P.O. Box 16471
Arlington, VA 22215-1471
Attn: MPU

Questions regarding this notice may be e-mailed to PatentPractice@uspto.gov, or directed to the Inventors' Assistance Center (formerly the Patent Assistance Center (PAC)) by telephone at (800)786-9199, or (703)308-4357.

January 12, 2005

JOHN D. HASSETT
Director
Administrative Services

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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NOV 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

In re Application of:
RAHN
Application No. 10/876,328
Filed: June 24, 2004
For: **METHOD FOR CORRECTION OF RELATIVE OBJECT-DETECTOR MOTION BETWEEN SUCCESSIVE VIEWS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on October 12, 2004, under M.P.E.P. § 708.02(X), inventions relating to HIV/AIDS and Cancer.

The petition is **GRANTED**.

The petition meets the requirements of MPEP § 708.02 (X).

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 0 6 2005

OFFICE OF PETITIONS

WAGNER, MURABITO & HAO
TWO NORTH MARKET STREET,
THIRD FLOOR
SAN JOSE CA 95113

In re Application of	:	
Michael B. Diamond	:	
Application No. 10/876,340	:	DECISION GRANTING PETITION
Filed: June 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NVID-P001180.CIP	:	

This is a decision on the petition, filed July 8, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 13, 2004 and September 14, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 15, 2005, accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2825 for examination in due course.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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WOODARD EMHARDT MORIARTY MCNETT & HENRY
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, MN 46204-5137

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Ken Kneringer et al :
Application No. 10/876,366 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 68015-6 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 9, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2004.

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 $1,590 extension of time submitted with the petition on March 17, 2005 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 Wan Laymon at (571) 272-3220.

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

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

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APR 07 2008

OFFICE OF PETITIONS

C. BART SULLIVAN
1543 SHERMAN DR.
BENICIA, CA 94510

In re Application of :
Randall H. Fogg, et al. :
Application No. 10/876,381 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. RF0001PA : 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 1, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "per agreement with client", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RANDALL H. FOGG
409 EAST 2ND STREET
BENICIA, CA 94510

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. BART SULLIVAN
1543 SHERMAN DRIVE
BENICIA, CA 94510

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OFFICE OF PETITIONS

In re Application of :
Randall H. Fogg, et al. :
Application No. 10/876,381 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. RF0001PA : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 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 C. Bart Sullivan 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.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RANDALL FOGG
409 EAST 2ND STREET
BENICIA, CA 94510

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
10/876,381	06/25/2004	Randall H. Fogg	RF001PA

CONFIRMATION NO. 2520

C. BART SULLIVAN
1543 SHERMAN DR.
BENICIA, CA 94510

POWER OF ATTORNEY NOTICE

OC00000030700163

Date Mailed: 06/26/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2008.

- 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.

/amwise/

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

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MARJAMA & BILINSKI LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE NY 13202

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OFFICE OF PETITIONS

In re Application of	:	
Noah Montena	:	
Application No. 10/876,386	:	DECISION DISMISSING PETITION
Filed: June 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 205_115	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until March 6, 2007. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted is unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Philip S. Johnson, Esq.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
WH3221
NEW BRUNSWICK NJ 08933-7003

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JUL 26 2010

OFFICE OF PETITIONS

In re Application of :
Shanley et al. :
Application No. 10/876,406 :
Filed: June 25, 2004 : ON APPLICATION FOR
Attorney Docket No. : PATENT TERM ADJUSTMENT
CM15014USCIP1 :
Title: METHOD AND APPARATUS FOR :
LOADING A BENEFICIAL AGENT INTO :
AN EXPANDABLE MEDICAL DEVICE :

This is in response to the "APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed February 4, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand seven hundred twenty-seven (1,727) days, not one thousand one hundred eighty-six (1,186) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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OFFICE OF PETITIONS

In re Application of :
MCINTOSH, Kevin D. et al. :
Application No. 10/876,417 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. **P10443.02** : 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**.

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, (the sale of this patent or application from Medtronic to Arteriocyte), 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 the undersigned at 571-272- 4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BRIAN P. HOPKINS**
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
666 THIRD AVENUE
NEW YORK, NY 10017

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DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert Fayette Andrew Nelson et al.	:	
Application No. 10/876,427	:	DECISION ON PETITION
Filed: June 24, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant Robert Fayette Andrew Nelson attesting that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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 3734 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GREGORY J. KOERNER
REDWOOD PATENT LAW
1291 EAST HILLSDALE BOULEVARD
SUITE 205
FOSTER CITY, CA 94404

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OFFICE OF PETITIONS

In re Application of	:	
Guy C. Thrap	:	
Application No. 10/876,441	:	DECISION ON PETITION
Filed: June 25, 2004	:	TO WITHDRAW
Attorney Docket No. M701US	:	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 petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2838.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: SERAFINI ASSOCIATES
7660 FAY AVE. STE H378
LA JOLLA, CA 92037

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JAN 24 2007

OFFICE OF PETITIONS

BRIAN M BERLINER, ESQ.
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

In re Application of :
Paul A. Maltseff et al :
Application No. 10/876,443 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 411951-251 :

This is a decision on the petition under 37 CFR 1.182, filed January 9, 2007, to change the name of one of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired name change accompanies this decision on petition.

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

This matter is being referred to patent publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/876,443	06/24/2004	2612	964	411951-251	2	26	4

CONFIRMATION NO. 4114

23879
BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

CORRECTED FILING RECEIPT

OC000000022121193

OC000000022121193

Date Mailed: 01/24/2007

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

Applicant(s)

Paul August Maltseff, Edmonds, WA;
H. Sprague Ackley, Seattle, WA;

Power of Attorney:

M Carpenter--22790
L Rish--27588
Brian Berliner--34549
Dennis Gallagher--42563

Domestic Priority data as claimed by applicant

This application is a CON of 09/270,281 03/16/1999 ABN

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 US10/876,443

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DATA ENCODING IN RADIO FREQUENCY IDENTIFICATION TRANSPONDERS

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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JUL 21 2005

Technology Center 2100

In re Application of: Lowe, et al.
Application No. 10/876,522
Filed: 24 June 2004
For: INTEGRATED FIREWALL/VIRUS SCANNER SYSTEM METHOD, AND COMPUTER PROGRAM PRODUCT

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed 22 July 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention and specification are generally directed to the identification of certain malicious computer communications, and responsive to the identified communications, blocking exchange of that data.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DENIED**. Any request for reconsideration must be filed within two months of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Vincent Trans
Special Programs Examiner
Technology Center 2100
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Information Security
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TECHNOLOGY CENTER 2100

In re Application of: Lowe, et al.)
Application No. 10/876,522)
Filed: June 24, 2004) **DECISION ON PETITION TO MAKE**
For: INTEGRATED FIREWALL/VIRUS) **SPECIAL UNDER 37 C.F.R. §1.102(d)**
SCANNER SYSTEM, METHOD, AND) **AND M.P.E.P.§708.02(XI)**
COMPUTER PROGRAM PRODUCT)

This is a decision on the request for reconsideration (supplemental petition) filed on August 30, 2005. A petition to make special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, was filed on July 27, 2004 and subsequently dismissed in the decision mailed on July 21, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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
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JUL 21 2005

Technology Center 2100

In re Application of: Lowe, et al.
Application No. 10/876,523
Filed: 24 June 2004
For: SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR TAILORING SECURITY RESPONSES FOR LOCAL AND REMOTE FILE OPEN REQUESTS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed 22 July 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention and specification are generally directed to the

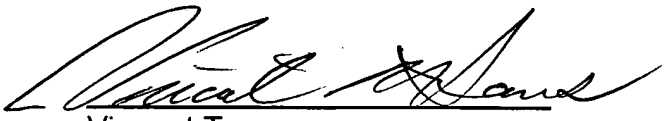
identification of whether a file request is from a remote computer, and scanning the file based on the identification.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DENIED**. Any request for reconsideration must be filed within two months of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.



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TECHNOLOGY CENTER 2100

In re Application of: Lowe, et al.
Application No. 10/876,523
Filed: June 24, 2004
For: SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR TAILORING SECURITY RESPONSES FOR LOCAL AND REMOTE FILE OPEN REQUESTS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the request for reconsideration (supplemental petition) filed on August 30, 2005. A petition to make special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, was filed on July 22, 2004 and subsequently dismissed in the decision mailed on July 21, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
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> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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
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APR 2 6 2005

Technology Center 2100

In re Application of: Lowe, et al.
Application No. 10/876,524
Filed: June 24, 2004
For: RULE SET-BASED SYSTEM AND METHOD FOR ADVANCED VIRUS PROTECTION

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed July 27, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The Petition is **GRANTED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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 4/19/05
Technology Center 2100
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July 2005

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

AUG 29 2005

In re Application of:
TOMOKATSU FUSEYA ET AL.
Serial No.: 10/876,537
Filed: 28 June 2004
Docket: Tsut.0042
Title: DISK ARRAY SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on June 27, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention, and an intent to elect without traverse should election be required; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

The application file is being forwarded to the examiner for expedited prosecution.

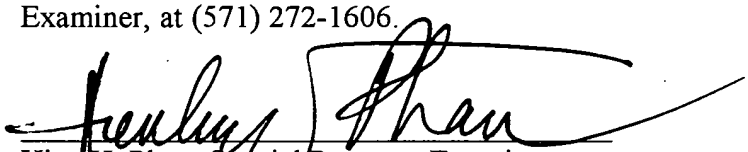
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

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

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.



Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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In re Application of :
Ross Walden Tye :
Application No. 10/876,541 : DECISION GRANTING PETITION
Filed: June 28, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 33482-701.301 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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 RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 21, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1654.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 06/03/2010

Applicant	: Gurli Mogensen	: DECISION ON REQUEST FOR
Patent Number	: 7625538	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/876,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1351** 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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P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of :
Atsushi Ito et al :
Application No. 10/876,574 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 119553 :

This is a decision on the petition, filed April 13, 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 March 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2861 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Tsutomu Suzuki :
Application No. 10/876,578 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 119937 :

This is a decision on the petition, filed June 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 May 25, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Hyong-uk Choi	: DECISION ON REQUEST FOR
Patent Number	: 7616602	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1272** 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 PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Aaron W. Buchwald et al. :
Application No. 10/876,602 : DECISION ACCORDING STATUS
Filed: June 28, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 1875.4950000 :

This is in response to the petition filed November 16, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on June 28, 2004, naming Aaron W. Buchwald, Michael Le, Hui Wang, Howard A. Baumer and Pieter Vorenkamp as joint inventors but without a signed declaration. Accordingly, on August 16, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on November 16, 2004, the instant petition under 37 CFR 1.47(a), an oath or declaration executed by joint inventors Le, Wang, Baumer and Vorenkamp and a one month extension of time request was filed. The petition argues that joint inventor Buchwald refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Buchwald via FEDEX and email and that he has not returned an executed oath or declaration.

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

A credit card payment in the amount of $240.00 covered the late filing surcharge and the extension of time fee but did not cover the petition fee. However, pursuant to the authorization in the petition, the petition fee in the amount of $130.00 will be charged to Deposit Account No. 19-0036.

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

The application is being forwarded to Technology Center 2631 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: MIYATA et al.
Application No. 10/876,647
Filed: June 28, 2004
For: FILE INPUT/OUTPUT CONROL DEVICE AND METHOD FOR THE SAME

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 12 August 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

ds

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

Mail Date: 04/21/2010

Applicant	: Peter A. Saunderson	: DECISION ON REQUEST FOR
Patent Number	: 7660323	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **962** 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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/04/2010

Applicant	: Takeshi Mori	: DECISION ON REQUEST FOR
Patent Number	: 7645111	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/876,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **540** 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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JUN -9 2005

In re Application of :
Anthony J. Antonious :
Serial No. 10/876,656 :
Filed: June 28, 2004 : DECISION ON PETITION
For: METALWOOD TYPE GOLF CLUBHEAD : TO MAKE SPECIAL
HAVING AN IMPROVED STRUCTURAL :
SYSTEM FOR REDUCTION OF THE :
CUBIC CENTIMETER DISPLACEMENT :
AND THE ELIMINATION OF ADVERSE :
AERODYNAMIC DRAG EFFECT :

Applicant's petition, filed June 28, 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.

Richard A. Bertsch, Director
Technology Center 3700

Welsh and Flaxman, LLC
2450 Crystal Drive, Suite 112
Arlington, VA 22202

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1501-10060 JASPER AVENUE *AIR MAIL*
SCOTIA PLACE, TOWER TWO
EDMONTON, ALBERTA, CANADA 75J 3R8

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OFFICE OF PETITIONS

In re Application of	:	
Gerald Edward Kent	:	
Application No. 10/876,661	:	DECISION GRANTING PETITION
Filed: June 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 58029-96D	:	

This is a decision on the petition, filed December 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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SUITE 370
ALEXANDRIA VA 22314

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SEP 9 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Aki Tomita., et al.
Application No. 10/876,694
Filed: June 28, 2004
For: **STORAGE CONTROL DEVICE AND ACCESS CONTROL METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 18, 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

DATE : 6/4/09

Request for Certificate of Correction for Appl. No.: 10876705 Patent No.: 7529935 B2

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: _____

_____

_____

_____

_____

/Kimyen Vu/ **2435**
SPE **Art Unit**

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)
6979238	2005-12-27	10876740	2004-06-28	80505.17

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph R. Keating, #37,368/	Date (YYYY-MM-DD)	2010-03-02
Name	Joseph R. Keating	Registration Number	37368

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6979238
Issue Date: December 27,2005
Application No. 10876740
Filed: June 28,2004
Attorney Docket No. 80505.17

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 11 2005

Howrey Simon Arnold & White, LLP
C/o IP Docketing Department
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042-2924

In re application of
David J. Bauer et al.
Application No. 10/876,751
Filed: June 25, 2004
For: ONLINE BIDDING SYSTEM WITH INTERACTIVE VOICE RECOGNITION INTERFACE

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

This is in response to the petition filed on October 25, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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
(703) 308-2121

RAR/dcg: 3/9/05

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OFFICE OF PETITIONS

In re Application of	:	
QUERO, et al.	:	
Application No. 10/876,770	:	DECISION GRANTING PETITION
Filed: June 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15540-027001 / 18.217-DS0	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 04, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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JUL 12 2005

WHITE, REDWAY AND BROWN LLP
1217 KING STREET
ALEXANDRIA, VA 22314

In re Application of Duval et al. : PETITION DECISION
Serial No.: 10/876,777 :
Filed: June 28, 2004 :
Attorney Docket No.: DUVAL0204391

This is in response to the petition under 37 CFR 1.181, filed May 25, 2005, for withdrawal of abandonment of the above identified application based on evidence that the Notice Of Abandonment was not proper.

A review of the file history shows that the Office mailed a Notice to File Missing Parts (notice) to Applicants on August 27, 2004. On May 18, 2005, the Office mailed a Notice of Abandonment indicating that no reply was received. Then, on June 15, 2005, the Office sent Applicants a Withdrawal of Previously Sent Notice, withdrawing the Notice of Abandonment.

According to Applicants, a Reply to the Notice to File Missing Parts was faxed to the Office on October 27, 2004. In furtherance of their assertion, Applicants enclosed with their petition a copy of the facsimile filing and a copy of the Auto-Reply Facsimile Transmission received from the Office on October 27, 2004. In view of the evidence that was included with the petition along with the Office's Withdrawal of the Previously Sent Notice, the Notice of Abandonment is no longer in effect.

The petition is therefore **DISMISSED**.

The application has been restored to pending status.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584, or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel

George Elliott
Director, Technology Center 1600

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AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591

Mail Date: 04/20/2010

Applicant	: Raphael Duval	: DECISION ON REQUEST FOR
Patent Number	: 7597804	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,777	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **453** 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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ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

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AUG 0 8 2008

In re Application of :
Bret A. Ferree :
Application No. 10/876,792 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. BAF-11909/29

This is a decision on the petition, filed August 4, 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 July 23, 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 3738 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/876,794	06/25/2004	3744	1704	06475 USA	3	36	9

CONFIRMATION NO. 1675

23543
AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN, PA 181951501

UPDATED FILING RECEIPT

OC000000014092845

Date Mailed: 10/15/2004

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

Applicant(s)

Bharat Lajjaram Bhatt, Fogelsville, PA;
William Curtis Kottke, Fogelsville, PA;
David Jonathan Chalk, Slatington, PA;
Todd Eric Carlson, Upper Macungie, PA;

Power of Attorney: The patent practitioners associated with Customer Number **23543**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/876,794

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Zero-clearance ultra-high-pressure gas compressor

Preliminary Class

062

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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ERIE, PA 16506-4508

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OFFICE OF PETITIONS

In re Application of :
Ronald Hahn, et al. :
Application No. 10/876,797 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 54046.0003 AIS :

This is a decision on the petition under the unintentional provisions of 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 February 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 2, 2007. Accordingly, the date of abandonment of this application is February 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of Krishnan :
Application No. 10/876,803 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 2003P09198US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2008, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on October 4, 2007. The Office action set a shortened statutory period of three months for reply. A reply was filed on November 26, 2007. An Advisory Action indicating the reply was an improper reply to a final Office action was mailed May 14, 2008.

Since an amendment was filed within two months of the final Office action and an advisory action was mailed more than six months after the mail date of the Office action, the last date of the period for reply was April 4, 2008, six months after the mail date of the Office action. Therefore, the application became abandoned as of midnight on April 4, 2008.

A Notice of Abandonment was mailed July 22, 2008.

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

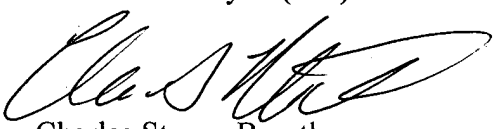
Petitioner has supplied a reply to the final Office action in the form of a Request for Continued Examination and the required submission. Petitioner has submitted the required petition fee of

$1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 3737 will be informed of the instant decision and the application will be further examined in due course.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Application of :
Howard L. THOMAS, JR. :
Application No. 10/876,804 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 2P07 1-042 :

This is a decision on the petition under 37 CFR 1.182, filed, December 17, 2009, to change the name of inventor "Howard L. Thomas Jr." to – Gwen Thomas --.

The petition is **DISMISSED**.

In the petition dated December 17, 2009, petitioner states that Inventor Howard L. Thomas Jr. name has been changed to Gwen Thomas. Petitioner states a certified copy of the court order, an affidavit in support of petition to change the inventor's name and an application data sheet showing the new name of the inventor, accompanies the petition.

A review of the Office record shows no receipt of a certified copy of the court order and application data sheet.

In view of the above, the petition under § 1.182 to change the inventor's name cannot be granted at this time because petitioner has not provided sufficient evidence to determine the procedure by which the name change is effected.

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

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

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

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

Any questions concerning this matter may be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Jack Schwartz & Associates
1350 Broadway
Suite 1510
New York, NY 10018-7702

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of

Fleming, et al.

Application No. 10/876,809

Filed: June 25, 2004

Attorney Docket No. P-TL-00002

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 18, 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 (the "Notice") mailed June 19, 2006. 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 20, 2006. A Notice of Abandonment was mailed on October 19, 2006.

Corrected drawings were received on December 18, 2006.

The Revocation and Substitution of Attorneys filed on December 18, 2006, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Patent No. 7,442,399	:	DECISION ON REQUEST
Gaonkar et al.	:	FOR
Issue Date: October 28, 2008	:	RECONSIDERATION OF
Application No. 10/876,813	:	PATENT TERM ADJUSTMENT
Filed: June 25, 2004	:	
Attorney Docket No. 1410/67592	:	
Title: Aroma-Producing	:	
Compositions For Food	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed December 24, 2008. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred eighty-nine (589) to one thousand eighty (1080) days.

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

On October 28, 2008, the above-identified application matured into U.S. Patent No. 7,442,399. 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 589 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1080 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 contend that they are entitled to a period of patent term adjustment equal to the period of delays accrued under 37 CFR §1.702 reduced by the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704.

The period of reduction of 73 days for applicant delay is not in dispute.

Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (491 days) and the period of Examination Delay (662 days). Patentees do not dispute that they are entitled to both periods of delay only to the extent that these periods of delay are not overlapping. Rather, relying on the Wyeth[1] decision, patentees maintain that these periods do not overlap as the actual calendar dates in the periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 1080 days (662 + 491 - 73).

Patentees' interpretation of the period of overlap has been considered, but not found persuasive.

It is recognized that the instant patent issued 3 years and 491 days after its filing date. However, this period of delay has to be considered in light of the 662 day period of adjustment accorded for Office delay in issuance of the first Office action. The Office contends that the entire period of 491 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent.

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

> to the extent that the periods of delay attributable to grounds specified in paragraph (1)[i] 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:

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[1] Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees acknowledge that the Office has appealed the Wyeth decision, and that this appeal is not yet resolved.

> 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[2]

---

[2] 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-

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 25, 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 25, 2004 to October 28, 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 662 days, not 662 + 491 days. The Office took 14 months and 662 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 662 days of Office delay and the 73 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 491 days after its filing date. The Office did not delay 662 days and then an additional 491 days. Accordingly, 662 days of patent term adjustment (not 662 and 491 days) was properly entered since the period of delay of 491 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 662 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 662 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 491 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.

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.

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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).

The fee under 37 CFR 1.18(e) is required and will not be refunded.

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

---

[i] 35 U.S.C. 154(b) ADJUSTMENT OF PATENT TERM. —
(1) PATENT TERM GUARANTEES. —
(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —
(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
(I) the date on which an application was filed under section 111(a) of this title; or
(II) the date on which an international application fulfilled the requirements of section 371 of this title;
(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —
(i) a proceeding under section 135(a);
(ii) the imposition of an order under section 181; or
(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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In re Application of

Douglas Kozlay :

Application No. 10/876,819 : DECISION ON PETITION

Filed: June 24, 2004 :

Attorney Docket No. AMK-4107-12

This is a decision on the petition under 37 CFR 1.137(b), filed, May 30, 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 February 12, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period. The application became abandoned on May 13, 2007. A Notice of Abandonment was mailed on January 16, 2008.

The amendment filed May 20, 2008, is noted.

The application is being forwarded to Technology Center 1600, GAU 1634 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of
Yee et al.
Application No. 10/876,831
Filed: 06/24/2004
Attorney Docket No. INWO0018

DECISION DISMISSING PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed May 31, 2006. This is also a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

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

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of the Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b)."

On August 18, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application to applicant, which set a two (2) month shortened statutory period to submit a properly signed oath or declaration in compliance with 37 CFR 1.63, a $130.00 surcharge, and replacement drawings. Applicant failed to submit a timely and proper reply to the Notice. Accordingly, the application became abandoned on October 9, 2004. On May 18, 2005, the Office mailed a Notice of Abandonment.

On May 31, 2006, applicant submitted petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b), a declaration signed by one of the four joint inventors, and an authorization to charge any necessary fees.

Consideration under 37 CFR 1.47(a):

Applicant stated a letter, a copy of the patent application, and oath/declaration was sent via Federal Express to each of the non-signing inventors at their last known addresses; however, the letters were returned with no forwarding addresses. Copies of the letters and the outside of the Federal Express

envelopes accompanied the petition. Applicant stated that diligent efforts were made to reach the non-signing inventors.

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

As to item (1), the Office notes that applicant failed to submit sufficient evidence to prove that diligent efforts were made to locate the non-signing inventors. See MPEP 403.03(d). Initially, the Office notes that Della Revecho, Patent Administrator, signed the letters to the non-signing inventors. Nevertheless, applicant did not submit a statement from Ms. Revecho as to her firsthand knowledge of the events. Additionally, applicant did not provide an explanation or documentary evidence of the diligent efforts made to reach the non-signing inventors. If attempts to obtain forwarding addresses and to locate the non-signing inventors by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 CFR 1.47 that the inventors cannot be reached. Details of the efforts to locate the non-signing inventors should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicant should submit documentary evidence such as the results of a telephone directory, E-mail or Internet search.

Consideration under 37 CFR 1.137(b):

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed.
>
> (2) The petition fee as set forth in 37 CFR 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition 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 37 CFR 1.137(d).

The present petition does not satisfy item (1).

As to item (1), applicant failed to submit the required reply to the Notice to File Missing Parts of Nonprovisional Application. To meet the reply requirement, applicant must either file a declaration signed by all of the inventors or a grantable petition under 37 CFR 1.47(a).

Conclusion

Once applicant files a grantable petition under 37 CFR 1.47(a), the application may be revived under 37 CFR 1.137(b).

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: (570) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Yee et al. : DECISION GRANTING
Application No. 10/876,831 : PETITIONS
Filed: 06/24/2004 :
Attorney Docket No. INWO0018 :

This is a decision on the renewed petition under 37 CFR 1.47(a), filed April 6, 2007. This is also a decision on the renewed petition under 37 CFR 1.137(b), filed April 6, 2007, to revive the above-identified application.

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

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

On August 18, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application to applicants, which set a two (2) month shortened statutory period to submit a properly signed oath or declaration in compliance with 37 CFR 1.63, a $130.00 surcharge, and replacement drawings. Applicants failed to submit a timely and proper reply to the Notice. Accordingly, the application became abandoned on October 9, 2004. On May 18, 2005, the Office mailed a Notice of Abandonment.

Consideration under 37 CFR 1.47(a):

Applicants showed that the non-signing inventor could not be located to join in the filing of the above-identified application after having been mailed the application papers.

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

Consideration under 37 CFR 1.137(b):

Applicants have meet the requirements under 37 CFR 1.137(b), in that applicants submitted the appropriate reply in the form of a grantable petition under 37 CFR 1.47(a), paid the petition fee, and made a proper statement of unintentional delay.

This matter is being referred to Technology Center AU 2114 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Alex Slobodnik
110 Pasilo Terrace, #213
Sunnyvale CA 94086

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OFFICE OF PETITIONS

In re Application of :
Yee et al. :
Application No. 10/876,831 : LETTER
Filed: 06/24/2004 :
Attorney Docket No. INWO0018 :

Dear Mr. Slobodnik:

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 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 the Certification Division at (571) 272-3150 or (800) 972-6382 (outside the Washington, DC area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: GLENN PATENT GROUP
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LOS ANGELES, CA 90071-2611

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OFFICE OF PETITIONS

In re Application of :
Tsutomu Ishikawa :
Application No. 10/876,838 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 88519.0004

This is a decision on the petition filed, May 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 April 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2814 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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OFFICE OF PETITIONS

OPTICUS IP LAW, PLLC
7791 ALISTER MACKENZIE DRIVE
SARASOTA FL 34240

In re Application of :
Zavriyev et al. :
Application No. 10/876,847 : DECISION ON PETITION
Filed: June 25, 2004 : PURSUANT TO
Attorney Docket No.: 009-04US1 : 37 C.F.R. § 1.137(B)
Title: TWO-WAY QKD SYSTEM WITH ACTIVE COMPENSATION :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed July 27, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 3, 2009, which set a shortened statutory period for reply of three months.[1] No extensions of time are permitted for transmitting issue fees.[2] Accordingly, the above-identified application became abandoned on June 4, 2009. A Notice of Abandonment was mailed on June 26, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

1 The publication fee was received on March 13, 2009.
2 See MPEP § 710.02(e)(III).

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

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

With this petition, Petitioner has submitted the petition and issue fees, along with a statement that is being construed as the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3] However, it is noted that both a terminal disclaimer and the associated fee were submitted with this petition. Should Petitioner wish for this terminal disclaimer to be withdrawn, a petition requesting the same will be required.

Moreover, it is noted that Petitioner has submitted the publication fee along with this petition. This duplicate payment will be refunded to Petitioner's Deposit Account in due course.

Regarding Petitioner's request "that the Notice of Abandonment be withdrawn," this request cannot be entertained, as the notice of abandonment was properly mailed - there is no dispute regarding the fact that this application was properly held to be abandoned.[4]

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3 See Rule 1.137(d).
4 See MPEP § 711.03(c)(I).

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

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

FROM DIRECTORS OFFICE

MAY 18 2006

TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

In re application of : **DECISION ON PETITION**
John T. Knepler : **TO MAKE SPECIAL**
Application No. 10/876,849 : **(ACCELERATED**
Filed: June 25, 2004 : **EXAMINATION)**
For: METHOD OF LIMITING BREWER OPERATION AUTHORIZED SUBSTANCES

This is in response to the petition filed on February 15, 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 requirement (B) above. Regarding item (B), the petition does not include an offer to elect without traverse should a further restriction be required, which may be possible with the remaining claims.

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

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

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

KJD/dcg: 5/16/06

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JUN 07 2006

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BARNES AND THORNBURG
PO BOX 2786
CHICAGO, IL 60690-278

In re application of
John T. Knepler
Application No. 10/876,849
Filed: June 25, 2004
For: METHOD OF LIMITING BREWER OPERATION TO AUTHORIZED SUBSTANCES

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

This is in response to the renewed petition filed on May 24, 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(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

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

SNM/dcg: 6/5/06

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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John H. Thomas, P.C.
1561 East Main Street
Richmond, VA 23219

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OFFICE OF PETITIONS

In re Application of
Metts, Showerman, Powell, Amin, Moore, and Farrell
Application No.: 10/876,855
Filed: June 25, 2004
Attorney Docket No: CAL 1
For: **STOP TOP FOR VEHICLES**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed January 3, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on June 25, 2004, without an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on August 20, 2004, requiring an executed oath or declaration, surcharge, and replacement drawings. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on January 3, 20005, with a request for an extension of time within the third month. Replacement drawings were also filed on that date. In the instant petition, petitioner maintains that inventor Moore has refused to execute the declaration and join the prosecution of the above-cited application.

Petitioner has shown that inventor Moore has refused to join the prosecution of 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 inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JAN 31 2005

In re Application of	:	
MITCHELL.	:	
Serial Number: 10/876,857	:	PETITION UNDER
Filed: June 25, 2004	:	M.P.E.P. 708.02
For: DIFFERENTIAL PERFORATION PATTERN FOR DISPENSING PRINT MEDIA	:	

This is in response to the petition filed June 25, 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

Reinhart Boerner Van Deuren S.C.
Attn: Linda Gabriel, Docket Coordinator
1000 North Water Street
Suite 2100
Milwaukee, WI 53202

REINHART
BOERNER•VAN DEUREN s.c.
ATTORNEYS AT LAW

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PETITION GRANTED

FROM: Linda Gabriel, Docket Coordinator
DATE: September 27, 2004

William Krynski
Special Program Examiner
TC 1700
2/10/05

REQUESTED BY	L. Gabriel	ATTORNEY NO.	770
EXTENSION	8271	CLIENT NO.	096463
		MATTER NO.	0020

Total number of pages sent, including this page 15

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RESUBMISSION OF PETITION TO MAKE SPECIAL PREVIOUSLY FILED WITH APPLICATION ON 6/25/04 AS PETITION IS NOT ON PAIR AND NO DECISION HAS BEEN RECEIVED

Dear Sirs: Re: U.S. Serial Number 10/876,857
Filed 6/25/04; "Differential Perforation..."

This Petition to Make Special was filed with the above-referenced application on June 25, 2004, HOWEVER, WE HAVE NOT RECEIVED A DECISION NOR IS THIS PETITION ON THE PAIR. **Per my conversation with Mr. Pyon of GAU 1772 of today, please forward this petition to the Petitions Branch ASAP so that a decision may be rendered ASAP.** I have also attached the Filing Receipt for you reference. Please contact me at 414-298-8271 if you require any further information. Thank you for your assistance. Regards,

Linda Gabriel
Docket Coordinator

1000 NORTH WATER STREET P.O. BOX 2965 MILWAUKEE, WISCONSIN 53201-2965 TELEPHONE 414-298-1000 FACSIMILE 414-298-8097

PAGE 1/15 * RCVD AT 9/27/2004 3:18:42 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:4142988097 * DURATION (mm-ss):03-52

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Laila Baniahmad :
Application No. 10/876,859 : DECISIONS ON PETITIONS
Filed: June 24, 2004 :
Attorney Docket No. ASMNUT.030A :

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on September 26, 2005, to revive the above-identified application, which is first treated as a petition to withdraw the holding of abandonment. Additionally, this is a decision on the petition under 37 CFR 1.137(b). The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On September 2, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period for reply. In the absence of a timely filed response, the application became abandoned on November 3, 2004. A Notice of Abandonment was mailed on May 18, 2005.

Applicants asserted that the abandonment of the application was unavoidable because they did not receive the Notice to File Missing Parts or any other correspondence since filing the application. Applicants requested that the Office mail a copy of the Notice to the new correspondence address. Additionally, applicants stated that the mailing address had changed and that applicants transferred this application to the law firm of Knobbe, Martens, Olson & Bear, LLP. Applicants explained that they

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

(1) The required reply 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 § 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 include 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(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

were unable to file a Change of Address or Power of Attorney without the application number and had been waiting for a postcard or Official Filing Receipt with the application number to do such.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish 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.[2] 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 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).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Applicants did not submit a copy of the docket record where the non-received Notice would have been entered had it been received and docketed. Additionally, the practitioner did not specifically attest to the fact that a search of the file jacket and docket records indicated that the Notice was not received. As applicants have not presented the required showing, the petition to withdraw the holding of abandonment is dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

> 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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

The Notice to File Missing Parts of Nonprovisional Application of September 2, 2004, set a two-month extendable period for applicants to submit an oath or declaration, a surcharge, and replacement drawings in compliance with 37 CFR 1.84 and 1.121. The record reveals that applicants did not submit replacement drawings with the present petition.

A delay is not unavoidable when an applicant fails to comply with a requirement set forth in an Office communication, which necessitates a response within a specified time period. Additionally, applicants did not demonstrate that the delay was unavoidable due to non-receipt of the Notice. Accordingly, applicants have not satisfied the requirements of a grantable petition under 37 CFR 1.137(a). The petition to revive the application due to unavoidable delay is dismissed.

PETITION UNDER 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 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.

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[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

(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 requirements (1) and (3) above. Specifically, applicants did not submit the required response in the form of replacement drawings or provide a proper statement of unintentional delay. As applicants have not met the requirements of 37 CFR 1.137(b), the petition is dismissed.

Any request for reconsideration must be filed within TWO (2) MONTHS of the mailing date of this decision. The reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time pursuant to 37 CFR 1.136(a) are permitted.

The $130.00 surcharge and the $1,500.00 fee for filing a petition under 37 CFR 1.137(b) will be charged to Deposit Account No. 11-1410. A copy of the Notice to File Missing Parts accompanies this decision for applicants' convenience.

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

Enclosure: Notice to File Missing Parts of Nonprovisional Application

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/876,859	06/24/2004	Laila Baniahmad	NT-314-US

CONFIRMATION NO. 1927

Nu Tool, Inc.
Legal Department
1655 McCandless Drive
Milpitas, CA 95035

FORMALITIES LETTER

OC000000013697424

Date Mailed: 09/02/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be made on paper that has a white background (see 37 CFR 1.84 (e)). For example, drawings on graph paper, lined paper, or paper that has a non-white background are not acceptable. See Figure(s) 1-7.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Laila Baniahmad :
Application No. 10/876,859 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. ASMNUT.030A :

This is a decision on the renewed petitions under 37 CFR 1.181, 37 CFR 1.137(a)[1] and 37 CFR 1.137(b), filed on March 13, 2006.

On September 2, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period for reply. In the absence of a timely filed response, the application became abandoned on November 3, 2004. A Notice of Abandonment was mailed on May 18, 2005.

Applicants asserted that the abandonment of the application was unavoidable because they did not receive the Notice to File Missing Parts. Additionally, applicants stated that the mailing address had changed and that applicants transferred this application to the law firm of Knobbe, Martens, Olson & Bear, LLP. Applicants explained that they were unable to file a Change of Address or Power of Attorney without the application number and had been waiting for a postcard or Official Filing Receipt with the application number to do such.

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

(1) The required reply 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 § 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 include 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(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish 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.[2] 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 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).

In the present petition, the practitioner declared that based on two reviews of the file jacket, as well as a further examination of the file jacket and the docket records upon receipt of the Notice of Abandonment, he concluded that the Notice to File Missing Parts was not received. Unfortunately, applicants once again did not submit copies of the docket records or file jacket where the non-received Notice would have been entered had it been received and docketed. As applicants have not presented the required showing, the petition to withdraw the holding of abandonment is **dismissed**.

PETITION UNDER 37 CFR 1.137(a)

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are

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[2] MPEP 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

> 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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

On June 2, 2004, NuTool, Inc., the company applicants owned an obligation of assignment, was fully acquired by ASM America, Inc., creating ASM NuTool, Inc. Shortly thereafter, the correspondence address changed from 1655 McCandless Drive, Milpitas, CA 95035 to 3501 West Warren Avenue, Fremont, CA 94538. Applicants provided an address change to the USPS to forward mail to the new address; however, the Notice to File Missing Parts was not forwarded to the Fremont address. On October 8, 2004, the application was transferred to the firm of Knobbe, Martens, Olson & Bear, LLP. The entire contents of the file jacket were transferred to the firm, which consisted of the application papers and the transmittal. Applicants stated that the due date for the Notice to File Missing Parts was not docketed because it was not present in the file jacket. Applicants asserted that it was not possible to request the status of the application because they were unaware of the application number due to non-receipt of the Official Filing Receipt and the returned, postcard receipt. Applicants stated that they received the Notice of Abandonment on June 3, 2005, which was properly forwarded to the Fremont address.

Initially, the Office notes that although the law firm conducted thorough searches of the file jacket, there is no evidence that the firm requested the attorney of record to contact the USPTO in attempt to identify the application number through an inventor name search. The firm obtained the file jacket on October 8, 2004. The reply to the Notice to File Missing Parts could have been submitted with a five-month extension of time on April 2, 2005. Had the firm taken such action, the application may not have become abandoned.

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[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Next, the record reveals that neither applicants nor the practitioner submitted a change of correspondence address in this application until September 26, 2005, over 15 months after the first change of address to Fremont, CA, and approximately one year from the date the application file jacket was transferred to the law firm. Instead, applicants relied on the USPS to forward the USPTO communications to the law firm. Accordingly, it appears that applicants did not receive the Notice to File Missing Parts because they failed to file a timely change of correspondence address with the USPTO.

The belated notification to the USPTO of a change of correspondence address does not constitute proper notification as to establish unavoidable delay. Applicants are responsible for promptly informing the Office of any change of address. The Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address, an adequate showing of "unavoidable" delay requires a showing that applicant exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application at hand.[7] Furthermore, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[8]

As the record does not indicate that applicants exercised due care to promptly file a change of correspondence address in the subject application with the USPTO, the petition under 37 CFR 1.137(a) is **dismissed**.

PETITION UNDER 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 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):

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[7] MPEP 711.03(c)(III)(C)(2)

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

(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 37 CFR 1.137(d).

Applicants have satisfied the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Applicants submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

This matter is being referred 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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 16, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/876871 Patent No.: 7148280 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The amendments to col. 48 are approved. The Amendments to col. 43 and 45 are not approved. The scope and meaning of claim 4 is changed by the amendments to Col. 43. The amendments to col. 45, do not correct any errors.

/David Wu/, 1796

SPE **Art Unit**

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ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of :
Joseph J. Nunes, et al. :
Application No. 10/875,896 : DECISION ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. A-832 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2008. Accordingly, the date of abandonment of this application is July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON, TX 77269-2289

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Gopichand Katragadda, et al. :
Application No. 10/876,928 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 146081-1/YOD (GERD:0193):

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

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 December 6, 2006. This decision precedes the mailing of a Notice of Abandonment. On July 5, 2007, the present petition was filed, along with a Notice of Appeal (with fee) and a Pre-Appeal Brief Request for Review.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $500; (2) the petition fee of 1,500; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

In view of the submission of the Pre-Appeal Brief Request for Review, the period of time for filing the appeal brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request. **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 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.

This application is being referred to Technology Center AU 2829 for further prosecution.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TAIT SWANSON
7915 FM 1960 WEST, SUITE 330
HOUSTON, TX 77070

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410 Seventeenth Street
22ND Floor
Denver, CO 80202

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AUG 2 4 2006

TECHNOLOGY CENTER 2800

In re Application of al.
Application No. 10/876,944
Filed: 06/25/2004
Attorney Docket No. 2106/US/2

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR ∋ 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed 07/06/2006, are hereby vacated.

The application is being withdrawn from issue to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

The issue fee is refundable upon request. However, the 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, the applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Rexford Barnie, Supervisory Patent Examiner, Art Unit 2819, at (571) 272-7492.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DUANE MORRIS LLP - Princeton
PO BOX 5203
PRINCETON, NJ 08543-5203

Mail Date: 04/21/2010

Applicant	: Peter Peumans	: DECISION ON REQUEST FOR
Patent Number	: 7597927	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1370** 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 : 11/07/09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10876963 Patent No.: 7601441

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2701

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OFFICE OF PETITIONS

In re Application of :
Yu-Chin LAI et al. :
Application No. 10/876,969 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. **P03469** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 17, 2007. Accordingly, the date of abandonment of this application is March 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

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

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Patrick A. Hosein	: DECISION ON REQUEST FOR
Patent Number	: 7616660	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/876,979	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1359** 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

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of Margetson :
Application No. 10/876,999 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 238.005A-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A Notice of Appeal was filed July 25, 2005.

An Appeal Brief was filed September 2, 2005.

A Notice of Non-Compliant Appeal Brief was mailed December 2, 2005.

A new Appeal Brief was filed December 9, 2005.

A second Notice of Non-Compliant Appeal Brief was mailed February 27, 2006.

On March 22, 2006, petitioner filed an Appeal Brief (a copy of which was filed by facsimile transmission on May 28, 2006).

The March 22, 2006 Appeal Brief was identical to the December 9, 2005 Appeal Brief.

a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance mailed February 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 28, 2006. See MPEP 1215.04.

A Notice of Abandonment was mailed June 16, 2006.

The instant petition was filed June 28, 2006. An Appeal Brief accompanies the instant petition. The Appeal Brief appears identical to the Appeal Brief filed December 9, 2005.

Discussion:

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

(1) the required reply,
(2) the petition fee, and
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

As to item (1), petitioner has not filed a compliant amendment. Instead, petitioner has simply resubmitted a copy of an old appeal brief. Petitioner must submit a proper brief or file a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114.

As to item (3), any request for reconsideration should include the exact language cited above.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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NEW YORK, NY 10036

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of Margetson :
Application No. 10/876,999 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 238.005A-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application.

The petition is **granted.**

A Notice of Non-Compliant Appeal Brief was mailed February 27, 2006. A complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance mailed February 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 28, 2006. See MPEP 1215.04.

A Notice of Abandonment was mailed June 16, 2006.

The instant petition requests revival of the application.

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

Technology Center Art Unit 3754 will be informed of the instant decision and the examiner will consider the merits of the appeal brief filed June 28, 2006, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of Margetson :
Application No. 10/876,999 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 238.005A-1 :

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed October 17, 2006, to revive the above-identified application.

The decision mailed January 9, 2007, is **vacated**.

The petition is **dismissed.**

Facts:

A Notice of Appeal was filed July 25, 2005.

An Appeal Brief was filed September 2, 2005.

A Notice of Non-Compliant Appeal Brief was mailed December 2, 2005.

A new Appeal Brief was filed December 9, 2005.

A second Notice of Non-Compliant Appeal Brief was mailed February 27, 2006.

On March 22, 2006, petitioner filed an Appeal Brief (a copy of which was filed by facsimile transmission on May 28, 2006).

The March 22, 2006 Appeal Brief was identical to the December 9, 2005 Appeal Brief.

A complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance mailed February 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 28, 2006. See MPEP 1215.04.

A Notice of Abandonment was mailed June 16, 2006.

A petition under 37 CFR 1.137(b) was filed June 28, 2006.

A decision dismissing the petition was mailed October 12, 2006. The decision stated, "The Appeal Brief appears identical to the Appeal Brief filed December 9, 2005."

Discussion:

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

(1) the required reply,
(2) the petition fee, and
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has failed to supply item (1) above.

The instant petition establishes the Appeal Brief filed June 28, 2006, is not perfectly identical to the Appeal Brief filed June 28, 2006. However, the new Appeal Brief continues to fail to comply with the provisions of 37 CFR 41.37.

An example of a problem with the newest Appeal Brief,

> One must give the status of *all* claims and note the claims being appealed. Simply stating "pending claims in the application are appealed claims 2 to 5, all other claims having been cancelled" is improper because not only does it not list by claim number the claims cancelled, but it also does not identify claims 2-5 as having the status of being rejected as required.

The petition cannot be granted until petitioner files an Appeal Brief in full compliance with all the provisions of 37 CFR 41.37 and the MPEP *or* files a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Margetson :
Application No. 10/876,999 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 238.005A-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2007, to revive the above-identified application.

The petition is **dismissed.**

Facts:

A Notice of Appeal was filed July 25, 2005.

An Appeal Brief was filed September 2, 2005. A Notice of Non-Compliant Appeal Brief was mailed December 2, 2005.

A new Appeal Brief was filed December 9, 2005. A second Notice of Non-Compliant Appeal Brief was mailed February 27, 2006.

On March 22, 2006, petitioner filed an Appeal Brief (a copy of which was filed by facsimile transmission on May 28, 2006). The March 22, 2006 Appeal Brief was identical to the December 9, 2005 Appeal Brief.

A complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance mailed February 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 28, 2006. See MPEP 1215.04.

A Notice of Abandonment was mailed June 16, 2006.

A petition under 37 CFR 1.137(b) was filed June 28, 2006. A decision dismissing the petition was mailed October 12, 2006. The decision stated, "The Appeal Brief appears identical to the Appeal Brief filed December 9, 2005."

A renewed petition was filed October 11, 2006. A decision granting the petition was mailed January 9, 2007. A decision vacating the prior decision and dismissing the petition was mailed January 17, 2007. The new decision stated,

> [T]he new Appeal Brief continues to fail to comply with the provisions of 37 CFR 41.37.... The petition cannot be granted until petitioner files an Appeal Brief in full compliance with all the provisions of 37 CFR 41.37 and the MPEP *or* files a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114.

The Appeal Brief filed January 26, 2007, fails to comply with the provisions of 37 CFR 41.37 and the MPEP.

Problems with the newest Appeal Brief include,

(1) The "Status of the Claims" is still incorrect in so far as it does not identify what claims are on appeal. *In addition to* what is already in the "Status of the Claims," petitioner needs to identify the claims on appeals as indicated in the Notice of Non-Compliant Brief mailed February 27, 2006.

(2) Claim 5 in the claim appendix is not the same as the claim language set forth in the after final amendment entered for appeal. The after-final amendment removed "new matter" from Claim 5. Claim 5 in the appendix should be changed to the version of Claim 5 that was in the after-final amendment filed May 23, 2005.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Margetson :
Application No. 10/876,999 : Decision on Petition
Filing Date: June 25, 2004 :
Attorney Docket No. 238.005A-1 :

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

The petition is **granted.**

A Notice of Appeal was filed July 25, 2005.

An Appeal Brief was filed September 2, 2005.

A Notice of Non-Compliant Appeal Brief was mailed December 2, 2005.

A new Appeal Brief was filed December 9, 2005.

A second Notice of Non-Compliant Appeal Brief was mailed February 27, 2006.

On March 22, 2006, petitioner filed an Appeal Brief (a copy of which was filed by facsimile transmission on May 28, 2006).

The March 22, 2006 Appeal Brief was identical to the December 9, 2005 Appeal Brief.

A complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance mailed February 27, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 28, 2006. See MPEP 1215.04.

A Notice of Abandonment was mailed June 16, 2006.

The instant petition requests revival of the application.

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

37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition filed March 27, 2007, varies from this exact language, the statement will be construed as the equivalent of the statement above.

Technology Center Art Unit 3754 will be informed of the instant decision and will review the appeal brief filed March 27, 2007, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

Mail Date: 04/21/2010

Applicant	: Charles E. Croke	: DECISION ON REQUEST FOR
Patent Number	: 7669167	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: 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

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

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Anders Vikso-Nielsen	: DECISION ON REQUEST FOR
Patent Number	: 7618795	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,007	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **575** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 04 25

Thomas L. Adams
120 Eagle Rock Avenue
East Hanover NJ 07936

In re Application of :
Steven Heyn :
Serial No.: 10/877,023 : DECISION ON PETITION
Filed: June 28, 2004 :
For: Exercise Apparatus :

This is in response to the petition applicant filed on September 1, 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 Frederick R. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey R. Sirois, et al. :
Application No. 10/877,029 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. MS1-2044US :

This is a decision in response to the petition, filed October 18, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED AS MOOT.

The petition is filed in response to a Notice of Abandonment mailed September 19, 2006, stating that the application became abandoned for a failure to response to an Office action mailed July 28, 2005.

A review of the image file wrapper for this application failed to disclose an Office action mailed July 28, 2005. In fact, the only communication dated July 28, 2005 found of record was filed by applicant in response to the non-final Office action mailed May 17, 2005. For some unknown reason, PALM records for this application show that a Notice of Informal or Non-Responsive Amendment was mailed August 2, 2005; however, no such Notice is present in the image file wrapper.

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

In view of the above, the petition under 37 CFR 1.137(b) is unnecessary and petitioner is entitled to a refund of the $1,500 petition fee. 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.

This application is being referred to Technology Center AU 2628 for appropriate action in the normal course of business on the reply received July 28, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kevin Redmond
6960 SW Gator Trail
Palm City FL 34990

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Philip Rowe :
Application No. 10/877,030 : DECISION ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 032B-1 :

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on July 5, 2005, to revive the above-identified application, which is first treated as a petition to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The application became abandoned on October 18, 2004, for failure to reply timely to the Notice to File Corrected Application Papers ("Notice") mailed on August 17, 2004, which set a two-month extendable period for reply. A Notice of Abandonment was mailed on May 18, 2005.

Petitioner asserts that he did not receive the Notice of August 17, 2004. Additionally, petitioner requests that the Office refund the petition fee because the Notice was erroneous.

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

(1) The required reply 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 § 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 include 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(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish 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.[2] 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 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).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioner did not submit a copy of the docket record where the non-received Notice would have been entered had it been received and docketed. Additionally, the practitioner did not specifically attest to the fact that a search of the file jacket and docket records indicates that the Notice was not received. As petitioner has not presented the required showing, the petition to withdraw the holding of abandonment is dismissed.

REQUIREMENT FOR REPLY

Petitioner avers that the Notice was erroneous. A review of the page 15 (previously numbered as page 14 but was crossed out) of the specification submitted on filing and again on petition reveals that petitioner "crossed out" or heavily lined through a section of text on that page. Additionally, on one of the original drawing sheets more than one figure was present and was not labeled. Specificially, the drawing sheet showed two figures with only one label, Fig. 8.

On December 27, 2004, petitioner submitted replacement drawings correcting the informality by labeling one of the figures as Fig. 9. However, it does not appear that petitioner has submitted a substitute specification with the present petition in compliance with the Notice and 37 CFR 1.52(a). Petitioner must submit a substitute specification with any renewed petition before the application can be revived.

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

PETITION UNDER 37 CFR 1.137(a)

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

A delay is not unavoidable when an applicant fails to comply with a requirement set forth in an Office communication, which necessitates a response within a specified time period. Additionally, petitioner did not demonstrate that the delay was unavoidable due to non-receipt of the Notice. Accordingly, as petitioner has not satisfied the requirements of a grantable petition under 37 CFR 1.137(a), the petition to revive the application due to unavoidable delay is dismissed.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

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[3] 35 U.S.C. § 133.

[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

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 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional 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), **an additional** $1,500.00 for a large entity and $750.00 for a small entity;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience.

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 L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64 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

Kevin Redmond
6960 SW Gator Trail
Palm City FL 34990

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of
Philip Rowe
Application No. 10/877,030
Filed: June 24, 2004
Attorney Docket No. 032B-1

DECISIONS ON PETITIONS

This is a decision on the renewed petitions under 37 CFR 1.137(a)[1] and 37 CFR 1.181, filed October 17, 2005.

The application became abandoned on October 18, 2004, for failure to reply timely to the Notice to File Corrected Application Papers ("Notice") mailed on August 17, 2004, which set a two-month extendable period for reply. A Notice of Abandonment was mailed on May 18, 2005.

In the renewed petitions, petitioner again asserts that he did not receive the Notice of August 17, 2004.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT (37 CFR 1.181)

As previously stated, a review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was

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

(1) The required reply 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 § 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 include 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(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish 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.[2]

In the renewed petitions, the practitioner attests to the fact that a search of the file jacket and docket record indicates that he did not receive the Notice to File Corrected Application Papers of August 17, 2004. Petitioner states that he enclosed a copy of the docket record (from May 10, 2004 to July 5, 2005) where the non-received Notice would have been entered had it been received and docketed. However, upon a review of the papers submitted previously and with the present renewed petitions, it does not that the USPTO has received a copy of the aforementioned docket record. Accordingly, petitioner has not presented the required showing to withdraw the holding of abandonment. Therefore, the petition under 37 CFR 1.181 is dismissed.

REQUIREMENT FOR REPLY

Petitioner states that petitioner enclosed a copy of a revised specification referring to new Figure 9 with the renewed petitions. However, a review of the papers submitted previously and with the renewed petitions, does not reveal that the USPTO received a copy of the aforementioned substitute specification. Petitioner must submit a substitute specification in compliance with the Notice and 37 CFR 1.52(a) with any renewed petition before the application can be revived.

PETITION UNDER 37 CFR 1.137(a)

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

> failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

A delay is not unavoidable when an applicant fails to comply with a requirement set forth in an Office communication, which necessitates a response within a specified time period. Additionally, petitioner did not demonstrate that the delay was unavoidable due to non-receipt of the Notice. Accordingly, as petitioner has not satisfied the requirements of a grantable petition under 37 CFR 1.137(a), the petition to revive the application due to unavoidable delay 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 are permitted under 37 CFR 1.136(a). With any renewed petition, petitioner should submit a copy of practitioner's docket record for the relevant period, as well as a substitute specification in compliance with 37 CFR 1.52(a).

ALTERNATIVE VENUE

Again, 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.

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

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

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[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

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), **an additional** $1,500.00 for a large entity and $750.00 for a small entity;

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

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

Kevin Redmond
6960 SW Gator Trail
Palm City FL 34990

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Philip Rowe :
Application No. 10/877,030 :
Filed: June 24, 2004 :
Attorney Docket No. 032B-1 :

DECISION ON PETITION

This is a decision on the petitioner under 37 CFR 1.137(b), filed December 27, 2005, to revive the above-identified application.

The application became abandoned on October 18, 2004, for failure to reply timely to the Notice to File Corrected Application Papers ("Notice") mailed on August 17, 2004, which set a two-month extendable period for reply. A Notice of Abandonment was mailed on May 18, 2005.

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE: W. Korzuch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/877,033 Patent No.: 7167331

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: _____

William Korzuch — SPE

2627 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Stephen Thomas Beckett	: DECISION ON REQUEST FOR
Patent Number	: 7608270	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,042	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Ian W. Kaye	: DECISION ON REQUEST FOR
Patent Number	: 7604673	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **929** 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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Daniel E. Munson	: DECISION ON REQUEST FOR
Patent Number	: 7636901	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **892** 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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DICKE, BILLIG & CZAJA, P.L.L.C.
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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JUL 14 2006

OFFICE OF PETITIONS

In re Application of :
Schultz et al. :
Application No. 10/877,062 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. T634.110.101 :

This is a decision on the petition under 37 CFR §1.102(d), filed August 23, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

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

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to 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.

This matter is being referred to the Technology Center Art Unit 3624 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/877,063	06/24/2004	Antonino Conte	2110-117-3	2084

7590 01/29/2008

GRAYBEAL JACKSON HALEY LLP
155-108th Avenue N.E., Suite 350
Bellevue, WA 98004-5973

EXAMINER	
NGUYEN, MATTHEW VAN	

ART UNIT	PAPER NUMBER
2838	

MAIL DATE	DELIVERY MODE
01/29/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRAYBEAK JACKSON HALEY LLP
155-108th Avenue, N.E. Suite 350
Bellevue WA 98004-5973

In re Application of:
Conte et al.
Serial No.: 10/877,063
Filed: August 25, 2005
Attorney Docket No.: 2110-117-03

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file the Office action mailed on May 24, 2007. A Notice of Abandonment was mailed on January 03, 2008.

A review of the written record indicates that a proper response to the Office action was filed on December 26, 2007, with a six (6) month extension of time and a request for continued examination (RCE) of filing date December 26, 2007, but not processed in the application file prior to the mailing of the Notice of Abandonment. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Supervisory Patent Examiner- Akm Enayet Ullah at (571) 272- 2361.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/30/09

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10877083 Patent No.: 7111783 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: The certificate of correction filed on 3/23/09 has been approved since the mistakes are of a typographical error and the corrections do not constitute new matter or require reexamination.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Michael G. Lee/ Supervisory
Patent Examiner, Art Unit 2876

SPE Art Unit

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YOUNG & THOMPSON
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2ND FLOOR
ARLINGTON, VA 22202

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NOV 01 2007

OFFICE OF PETITIONS

In re Application of :
Giordano Alfieri :
Application No. 10/877,086 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2553-1036 :

This is a decision on the petition under 37 CFR 1.137(b), on March 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

Finance records disclose that petitioner's $1,400 check, dated March 24, 2006, was returned to the Office for insufficient funds. Therefore, a bounced check fee of $50 must be submitted before revival of the above application can occur.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUN 19 2008

OFFICE OF PETITIONS

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

In re Application of :
Giordano Alfieri :
Application No. 10/877,086 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2553-1036 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on November 6, 2007, to revive the above-identified application.

There is no indication that the person signing the statement of unintentional delay 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 David E. Henn appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $50 for payment of the bounced check fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3691 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

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MAR 31 2008

OFFICE OF PETITIONS

In re Application of :
Mark Kerns :
Application No. 10/877,091 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 35693.830015.US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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 D. Hoge 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. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed February 28, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a

continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on June 19, 2007, does not *prima facie* place the application in condition for allowance, the reply required should be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

cc: Robert D. Hoge
370 17th Street, Suite 4700
Denver, CO 80202

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/877,091	KERNS, MARK	
	Examiner	Art Unit	
	/Ted Kavanaugh/	3728	

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

THE REPLY FILED 19 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-18*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Ted Kavanaugh/
Primary Examiner
Art Unit: 3728

Continuation of 3. NOTE: The proposed amendment (i.e. amendment to cliams 1,12 and 16-18) raise new issues that would require further cconsideration and/or search.

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET - SUITE 4700
DENVER, CO 80202-5647

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of :
Mark Kerns :
Application No. 10/877,091 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 188375/US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on May 12, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $405 filing fee[1]; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on May 12, 2008.

The Office acknowledges receipt of $510 for a three months extension of time filed on June 19, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3728 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] It is noted that the submission required under 37 CFR 1.114 will be the amendment previously filed on June 19, 2007.

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Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

Mail Date: 04/21/2010

Applicant	: Edward K.Y. Jung	: DECISION ON REQUEST FOR
Patent Number	: 7599696	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **392** 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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Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

Mail Date: 05/18/2010

Applicant : Edward K.Y. Jung
Patent Number : 7599696
Issue Date : 10/06/2009
Application No: 10/877,099
Filed : 06/25/2004

: 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 **490** 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.

DUANE MORRIS LLP
IP DEPARTMENT (TSMC)
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	DECISION ON APPLICATION
Application No. 10/877,103	:	FOR
Filed: June 25, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. N1085-00266	:	
(TSMC2003-1191)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - MPEP §2734," filed November 13, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twenty-nine (29) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **twenty-nine (29)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 10, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On November 13, 2007, applicants timely submitted the instant application for patent

term adjustment[1]. Applicants dispute the reduction of 97 days associated with the filing of a response after non-final Office action filed May 24, 2007. Applicants state that there was an error in the Office action mailed November 16, 2006. In response, as evidenced by Applicants' Interview Summary of February 20, 2007, the original Office action was re-mailed and the period for response restarted on February 27, 2007 (See also Examiner's Interview Summary of February 27, 2007). Further, the response filed May 24, 2007, was filed within three months of the mailing date of the re-mailed Office action, as such, no period of reduction under 37 CFR 1.704(b) is warranted.

Applicants state that the application is not subject to a terminal disclaimer.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of §1.704(b). The period of reduction of 97 days has been removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 29 days.

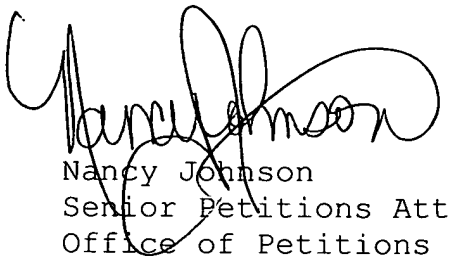
Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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).

---

[1] PALM records indicate that the Issue Payment was also filed on November 13, 2007.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PTA Calculations for Application: 10/877103			
Application Filing Date:	06/25/2004	PTO Delay (PTO):	29
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	97
Post-Issue Petitions:	0	Total PTA (days):	29
PTO Delay Adjustment:	97		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	02/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	97		
50	08/10/2007	MAIL NOTICE OF ALLOWANCE			
49	08/09/2007	ISSUE REVISION COMPLETED			
48	08/09/2007	DOCUMENT VERIFICATION			
47	08/09/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	08/09/2007	NOTICE OF ALLOWABILITY			
45	06/02/2007	DATE FORWARDED TO EXAMINER			
44	05/24/2007	RESPONSE AFTER NON-FINAL ACTION		97	40
43	02/20/2007	MISCELLANEOUS INCOMING LETTER			
42	02/27/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
41	02/20/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
40	11/16/2006	MAIL NON-FINAL REJECTION			
39	11/13/2006	NON-FINAL REJECTION			
38	09/10/2006	DATE FORWARDED TO EXAMINER			
37	09/06/2006	RESPONSE AFTER NON-FINAL ACTION			
36	06/06/2006	MAIL NON-FINAL REJECTION			
35	05/30/2006	NON-FINAL REJECTION			
34	03/22/2006	DATE FORWARDED TO EXAMINER			
33	03/17/2006	RESPONSE AFTER NON-FINAL ACTION			
32	12/19/2005	MAIL NON-FINAL REJECTION			
31	12/12/2005	NON-FINAL REJECTION			
30	10/26/2005	DATE FORWARDED TO EXAMINER			
29	10/24/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	09/23/2005	MAIL RESTRICTION REQUIREMENT	29		-1

27	09/22/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
26	07/26/2005	CORRESPONDENCE ADDRESS CHANGE			
25	04/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	12/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	12/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	10/27/2004	APPLICATION RETURN FROM OIPE			
20	10/27/2004	APPLICATION IS NOW COMPLETE			
19	10/27/2004	APPLICATION RETURN TO OIPE			
18	10/27/2004	APPLICATION RETURN FROM OIPE			
17	10/27/2004	APPLICATION IS NOW COMPLETE			
16	10/27/2004	APPLICATION RETURN TO OIPE			
15	10/27/2004	APPLICATION RETURN FROM OIPE			
14	10/27/2004	APPLICATION RETURN TO OIPE			
13	10/27/2004	APPLICATION DISPATCHED FROM OIPE			
12	10/27/2004	APPLICATION IS NOW COMPLETE			
11	10/13/2004	ADDITIONAL APPLICATION FILING FEES			
10	10/13/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	08/18/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	08/10/2004	CLEARED BY L&R (LARS)			
4	07/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	07/29/2004	CASE CLASSIFIED BY OIPE			
2	07/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2004	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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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

Mail Date: 04/26/2010

Applicant	: Anthony B. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7654728	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/877,106	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **661** 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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WINSTEAD SACHREST & MINICK P.C.
P. O. BOX 50784
Dallas TX 75201

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MAR 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
His-Hsis Lan
Application No.10/877,107
Filed: June 25, 2004
Title of Invention: Stereo Playing Card

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

A Notice to File Missing Parts setting an extendable two (2) month period for reply was mailed on August 10, 2004. Petitioner was eligible to purchase up to five months of extension of time from August 10, 2004. The extendable time period allowed applicant to file a reply to the Notice of Missing Parts until March 10, 2005. The petition to revive is premature; the application has not been abandoned. The petition however will be treated as a petition for extension of time.

The petition to revive is hereby **Dismissed as Inappropriate**.
The petition for extension of time is **Granted.**

Deposit account 23-2426 will be charged the $1080.00 fifth month extension of time fee. The $750.00 unintentional petition to revive fee will be refunded.

The Office acknowledges receipt of the declaration.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DORSEY & WHITNEY LLP
IP DEPARTMENT, ATTN: SYMYX TECHNOLOGIES
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS MN 55402-1498

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of
Benoit
Application No. 10/877,110
Filed: June 25, 2004
For: SYNTHESIS OF PHOTORESIST POLYMERS
Attorney Docket No: 14720.01
Pub. No.: US 2005/0077227 A1
Pub. Date: April 14, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), received on May 19, 2005, for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material errors made by the Office.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request also includes a mistake that is a not material error by the Office, which will not be corrected by a corrected publication by the Office.

The error on page 28, claim 27 wherein "R' is CN" is misprinted as "R is CN" is not a material Office mistake under 37 CFR 1.221. The error noted by requestor in this published application is due to the poor quality of the text in the application, as it is not clear that a prime symbol appears after the "R".

Applicant is advised that he or she may want to file application papers that are clearer, as some of the errors are due to the quality of the text. Some of the text in the application, which is small and close together, which makes it blurry and not clear, also

[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).

makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of :
Kuei-Chiang LAI, et *al.* :
Application No. 10/877,140 : DECISION ON PETITION
Filed: June 24, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **040296** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 9, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received October 30, 2009.

Christopher Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-01-06

Paper No.: _____

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction on Patent No.: 7084711 B2 (10/877149

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

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

Should DE be entered as Divisional? Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

_____

_____

_____

_____

_____

SPE — 2817 Art Unit

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

Mail Date: 04/21/2010

Applicant	: Sujatha Muthulingam	: DECISION ON REQUEST FOR
Patent Number	: 7587568	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **560** 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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BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVENUE
SUITE 208
CORONA, CA 92881

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Charles M. Craw :
Application No. 10/877,177 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. CC01-01U : 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 January 24, 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 Kirk A. Buhler on behalf of all attorneys/agents associated with customer number 37038. All attorneys/agents associated with customer number 37038 have been withdrawn.

The request to change the correspondence address has been changed and is copied below.

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

There are no outstanding Office actions in this case.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Charles M. Craw
50 Norwood Street
Redlands, CA 92373

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,177	06/28/2004	Charles M. Craw	CC01-01U

CONFIRMATION NO. 6392

POWER OF ATTORNEY NOTICE

37038
BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA, CA 92881

OC000000028295970

Date Mailed: 02/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2008.

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

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OFFICE OF PETITIONS

In re Application of :
Max P. McDaniel, et. al. :
Application No. 10/877,191 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. CPCM:0050-2/FLA/FAR/STA 3 :

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed December 15, 2006.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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DEC 22 2004

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OFFICE OF THE DIRECTOR
TC 3600

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

In re Application of
Mitchel Sparrow et al.
SERIAL NO.: 10/877192
FILED: June 25, 2004
FOR: EMC TECHNIQUES TO COUNTER PULSE COMPRESSION RADAR

DECISION ON PETITION

This is a decision on the request filed October 21, 2004 to waive the requirements of 37 CFR 1.84(a) so as to permit the application to include a color drawing. Applicant has shown that the use of color is an essential element in the representation of the drawing.

Petition Granted.

Thomas H. Tarcza
SPE, Art Unit 3662

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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

Mail Date: 04/21/2010

Applicant	: Richard A. Rossback	: DECISION ON REQUEST FOR
Patent Number	: 7601140	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1247** 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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Apple, Inc.
c/o Sawyer Law Group, P.C.
P.O. Box 51418
Palo Alto, CA 94303

Mail Date: 04/20/2010

Applicant	: John P. Ternus	: DECISION ON REQUEST FOR
Patent Number	: 7594630	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 11 2008

Conley Rose, P.C.
David A. Rose
P.O. Box 3267
Houston, TX 77253-3267

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SEP 11 2008

In re Application of :
Alvaro Ernesto Ortiz :
Application No. 10/877,219 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 2060-04300 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 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 June 28, 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 were obtained. Accordingly, the date of abandonment of this application is September 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 RCE (Request for Continued Examination), with the required fee of $395, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3731 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,219	06/25/2004	Alvaro Ernesto Ortiz	

CONFIRMATION NO. 4693

POA ACCEPTANCE LETTER

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

OC000000031940600

Date Mailed: 09/08/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/10/2008.

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.

/kainabinet/

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

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DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE, CA 92614

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of :
Thornton, et al. : DECISION REFUSING STATUS
Application No. 10/877,220 : UNDER 37 CFR 1.47(a)
Filed: June 25, 2004 :
Atty. Dkt. No.: ST 2622.03 US :
For: NEAR FIELD OPTICAL :
APPARATUS :

This decision is in response to the petition under 37 CFR 1.47(a), filed October 20, 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 25, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 20, 2004 requiring, *inter alia,* 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 requirements (1) and (2) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventor refused to sign the declaration after having been presented with the complete application papers (specification, including claims, drawings, and oath or declaration). The copy letter submitted as evidence that the non-signing inventor received the application papers indicates the enclosure of the claims and declaration only.

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 be accompanied by evidence that the inventor received a complete copy of the application papers. If the inventor thereafter refuses to execute the application papers either verbally, in writing, or otherwise, this fact should be set forth in a declaration of facts signed by one having first hand knowledge of the circumstances surrounding the refusal. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

As to item (2), the declaration submitted herewith is not acceptable as a signature has been inserted in the signature block of the non-signing inventor. Either all available inventors must sign the declaration in place of the non-signing inventor at the non-signing inventor's place of signature and in their own signature block, or the signature block of the non-signing inventor must remain blank while the available inventors sign the declaration on behalf of themselves and the non-signing inventor in their own signature block. Any renewed petition must be accompanied by a proper oath or declaration in compliance with 37 CFR 1.63.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
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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COHEN SAKAGUCHI & ENGLISH LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Victor Matvienko :
Application No. 10/877,221 :
Filed: June 25, 2004 : DECISION ON
Atty Docket No.: SOL-104 : PETITION

This is a decision in response to the Request to Withdraw Abandonment Due to Non-receipt of Notice to File Corrected Application Papers or Alternatively, a Petition to Revive for Unintentional Abandonment, May 22, 2005. The petition is properly treated under 37 CFR 1.181.

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 "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly responsd to the Notice to File Corrected Application Papers ("Notice"), mailed August 17, 2004. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on October 18, 2004. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Petition under 37 CFR 1.181

Applicant files the instant petition wherein Applicant avers that he did not receive the Office action. In support of this assertion, Applicant files a statement that the Notice was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Notice was not received. Applicant has failed to provide copies

of his docket record where the non-received Notice would have been entered had it been received and docketed.

Applicant is advised that, "[i]n order to overcome the presumption of delivery of an Office action, a practitioner must submit the following:

(1) A statement from the practitioner stating the Office action was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received, and
(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP 711.03(c)

Here, Applicant has failed to provide copies of his docket record where the non-received Notice would have been entered had it been received and docketed.

As such, the petition under 37 CFR 1.181 is dismissed.

Petition under 37 CFR 1.137(b)

With the instant petition, Applicant has filed replacement drawings.

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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JJGJR.: 02-05

Paper No: __

THOMAS N. GIACCHERINI
POST OFFICE BOX 1146
CARMEL VALLEY CA 93924

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of
Lin, et al :
Application No. 10/877,236 : DECISION ON PETITION
Filing Date: 24 June, 2004
Attorney Docket No. RF2004-1 :

This is a decision on the petition filed on 15 September, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 24 June, 2004, for Fig. 9 as described in the specification.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 24 June, 2004.

On 18 August 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 18 August Notice) and indicated that, while a filing date had been granted, it appeared, *inter alia*, that Fig. 9 as described in the specification was omitted from the application.

The 18 August Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to ignore the 12 November Notice and accept the application as filed.

In the 15 September, 2004, filing, Petitioner submitted, *inter alia*, the drawing, Fig. 9 as

described in the specification along with a copy of the receipt card.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 24 June, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("06/24/04") and provides, *inter alia*:

* * *

2. Patent Application including:

* * *

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

19 Sheets of Drawings[2]

* * *

The record further discloses that:

- the 1 sheet of drawings submitted with the petition contain Fig. 9–with the page numbered as "9/19"–as described in the specification;

- the record as it existed prior to the filing of the instant petition contained 18 sheets of drawings–none of which were Fig. 9 as described in the specification–and they are sequentially numbered 1/19, 2/19, 3/19, and so forth through and including 19/19; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 19 sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the 1 sheet of drawings Fig. 9 (9/19) as described in the specification was submitted on 24 June, 2004, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived and is refunded via Treasury check; and the Notice mailed on 18 August, 2004, hereby is withdrawn as to the 1 sheet of drawings Fig. 9 (9/19) as described in the specification of the application).

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 24 June, 2004, for the entire application and in particular for the 1 sheet of drawings Fig. 9 (9/19) as described in the specification using:

- pages cover, 1 - 68 (Specification, Claims, Abstract) and 18 sheets of drawings deposited on 24 June, 2004; and

- the 1 sheet of drawings Fig. 9 (9/19) as described in the specification deposited on 15 September, 2004;

- with direction to OIPE to correct Office records to reflect that cover and 68 pages of specification (description, claims and abstract) and 19 sheets of drawings were present on filing on 24 June, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 24 June, 2004, reflecting therein that cover and 68 pages of specification (description, claims and abstract) and 19 sheets of drawings were present on filing.

---

[2] The typed number "20" is crossed out and replaced with the handwritten number "19" and the change initialed by Petitioner in a correction that appears to have occurred prior to filing.

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

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

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

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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: Richard D. Dettinger	: DECISION ON REQUEST FOR
Patent Number	: 7599924	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,238	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 020605

Park & Associates
3600 Wilshire Blvd
Suite 1722
Los Angeles CA 90010

MAR 0 8 2005

In re Application of:
Cheong So Seo
Serial No.: 10/877,241
Filed: June 18, 2004
Attorney Docket No.: **1802.11**

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 January 05, 2005.

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

The request meets all the above stated requirements. The request was signed by George W. Luchkardt on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

Park & Associates remains of record at this time.

All future communications from the Office will be directed to Park & Associates, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Park & Associates
3600 Wilshire Blvd. Suite 1722
Los Angeles, CA 90010

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OFFICE OF PETITIONS

In re Application of
Richard Lee Fink :
Application No. 10/877,241 : DECISION ON
Filed: June 25, 2004 : PETITION
Attorney Docket No. 12179-P132US :

This is in response to the petition to revive under 37 CFR 1.137(b), filed February 13, 2006.[1]

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

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed November 3, 2005. No issue fee having been received, the application became abandoned on February 4, 2006. A Notice of Abandonment was mailed on July 25, 2006.

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

The application is being forwarded to the Office of Patent Publication 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

[1] Applicant subsequently filed a petition to withdraw the holding of abandonment on August 4, 2006, in which he re-transmitted the petition to revive filed February 13, 2006.

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LOUIS J. BACHAND
P.O. BOX 1508
LA CANADA, CA 91012

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
MEI, Shijin	:	
Application No. 10/877,245	:	DECISION ON PETITION
Filed: June 25, 2004	:	TO WITHDRAW
Attorney Docket No. **MGNC-114C**	:	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 7, 2007.

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

A review of the file record indicates that the power of attorney to LOUIS J. BACHAND has been revoked by the assignee of the patent application on May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE**
24772 SADDLE PEAK ROAD
MALIBU CA 90265

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,245	06/25/2004	Shijin Mei	MGNC-114C

CONFIRMATION NO. 3235

OC000000026325054

20986
LOUIS J BACHAND
P O BOX 1508
LA CANADA, CA 910125508

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

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

IPLO OF JOEL VOELZKE
24772 Saddle Peak Road
Malibu, CA 90265

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,245	06/25/2004	Shijin Mei	MGNC-114C

CONFIRMATION NO. 3235

OC000000026325062

47533
INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU, CA 90265

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

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

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

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INTELLECTUAL PROPERTY LAW OFFICE
OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU CA 90265

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of :
Shijin Mei :
Application No. 10/877,245 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MGNC-114C :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of October 5, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of :
Gayor Geller :
Application No. 10/877,248 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. 5128-1 : 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 August 16, 2006.

The request is **APPROVED**.

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

The request was signed by Joseph E. Kovarik on behalf of all attorneys of record who are associated with Customer No. 22442.

All attorneys/agents associated with the Customer No. 22442 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 Gayor Geller 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: **Gayor Geller**
540 S. Forest, Unit Y
Denver, CO 80246

cc: **Gayor Geller**
1685 South Colorado Boulevard, #S-168
Denver, CO 80222

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,248	06/25/2004	Gayor Geller	5128-1

CONFIRMATION NO. 3218

OC000000022245522

OC000000022245522

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Date Mailed: 01/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/16/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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DEC 0 7 2004

TECHNOLOGY CENTER 3600

John Baron Wang
118 13th Street
Del Mar CA 92014

In re application of : **DECISION ON PETITION**
John Baron Wang : **TO MAKE SPECIAL**
Application No. 10/877,251 : **(INFRINGEMENT)**
Filed: June 25, 2004 :
For: BATTERY POWERED MOTOR VEHICLES AND METHOD OF USE

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 20, 2004 to make the above-identified application special.

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

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

The petition filed September 20, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, applicant has submitted a copy of the one patent that he feels is the closest prior art to his invention. This reference is mentioned in paragraph 6 of the petition.

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

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

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

RAR: 12/1/04

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OFFICE OF PETITIONS

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

In re Patent No. 7,524,489
Issued: April 28, 2009
Application No. 10/877,269
Filed: June 28, 2004
Dkt. No.: 026038.0203PTUS

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
:
:
:

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322," filed March 4, 2010, which is being treated properly treated as a patent for patent term adjustment 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 602 days.

The above-identified application matured into U.S. Patent No. 7,524,489 on April 28, 2009. The instant request for reconsideration of the patent term adjustment was not filed until March 4, 2010. In accordance with 37 CFR 1.705(d), a proper request for reconsideration of patent term adjustment must be timely submitted within two months of the date of issuance of the patent. As the instant request for reconsideration of patent term adjustment was submitted more than two months after the date of issuance of the patent, the request is deemed untimely submitted within the meaning of 37 CFR 1.705(d). Moreover, any request for reconsideration of the patent term adjustment requires the submission forth fee set forth at 37 CFR 1.18(e). Accordingly, the petition is subject to dismissal for lack of the required fee.

In view thereof, the petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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7600B NORTH CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN TX 78731

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Akhil K. Garlapati et al :
Application No. 10/877,288 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 026-0043 :

This is a decision on the petition, filed July 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 30, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2816 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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JOHN P. WOOLDRIDGE
114 HONU'EA PLACE
KIHEI, HI 96753

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OFFICE OF PETITIONS

In re Application of :
William F. Krupke :
Application No. 10/877,289 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. BK-4 :

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 13, 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 payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address and Telephone number filed on March 5, 2007 has been accepted and made of record.

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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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Pascal Adjakple	: DECISION ON REQUEST FOR
Patent Number	: 7583653	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/877,310	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA DRIVE, SUITE 700
HOUSTON, TX 77057-5662

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In re Application of :
Stephanie N. Madan, et al. :
Application No. 10/877,328 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. MAD-1001-US :
:

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed July 23, 2007. A Notice of Abandonment was mailed on April 8, 2008. On September 24, 2008, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition 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.

This application is being referred to Technology Center AU 3744 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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Poss, Boye and Mobley :
Application No. 10/877,330 : DECISION ACCORDING STATUS
Filed: June 24, 2004 : UNDER 37 CFR 1.47(a)
For: Biometric Voice Authentication:

This is in response to the petition under 37 CFR 1.47(a), filed February 22, 2005. Petitioner obtained an extension of time within the fourth month to reply. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner has shown that Dag Boye, 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 Sabra-Anne R. Truesdale establishes that the inventor was presented with a copy of the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

This matter is being referred to Technology Center Art Unit 2641 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Dag Boye
EFG Companies
122 W. Carpenter Freeway, Sixth Floor
Irving, TX 75039

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Poss, Boye and Mobley :
Application No. 10/877,330 : LETTER
Filed: June 24, 2004 :
For: Biometric Voice Authentication :

Dear Mr. Boye:

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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JUL 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: FURUUMI, et al.
Application No. 10/877,345
Filed: June 25, 2004
For: DISK SUBSYSTEM

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

This is a response to the petition filed 27 May 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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 27 May 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 and 9 from the references are not in these claims. For example, these claims fail to specify "a storage controller having an external input unit for *receiving* a functional level . . . ." (emphasis added) Rather, these claim recite a storage controller having an external input unit for *outputting* a functional level. 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: FURUUMI et al.
Application No. 10/877,345
Filed: June 25, 2004
For: DISK SUBSYSTEM

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

This is a response to the renewed petition filed 15 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 renewed petition was filed in response to a dismissal of the original petition filed 27 May 2005.

The Petition is **DENIED**.

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

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

. . .

(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 original petition was dismissed for failing to meet requirement (e).

The renewed petition filed 15 August 2005 also 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. The statement purporting to distinguish independent claims 1 and 9 from each reference in effect recites essentially all of the limitations of each of claims 1 and 9. I.e., the statement purports that essentially the entirety of claim 1 and the entirety of claim 9 is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description.

Petition to Make Special **DENIED**.

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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CURAGEN CORPORATION
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NEW HAVEN, CT 06511

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Valerie L. Gerlach et al :
Application No. 10/877,346 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Cura 424 CON :

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 26, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.

At the time this petition was filed, extensions of time under the provisions of 37 CFR 1.136(a) were still available. In this regard, a reply to a Notice to File Missing Parts could have been extended up to May 26, 2005. However, since the required reply to the October 26, 2004 Notice was not filed until after expiration of the maximum period set therefor, the petition to revive is now necessary.

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 executed "Combined Declaration and Power of Attorney for Patent Application," $65 surcharge for the late filing of the executed declaration (received with the petition on May 25, 2005) and "Response to Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures," in compliance with 37 CFR 1.821(e) (received on July 28, 2005); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of October 26, 2004 is accepted as having been unintentionally delayed.

It is noted that the Office mailed out two Notices after the mailing of the October 26, 2004 Notice; i.e., one on July 8, 2005 and one on August 4, 2005. However, consistent with Lorenz v. Finkl, 142 USPQ 26, 30 (CCPA 1964), these subsequent Notices by

the Office do not rescue the application from abandonment. Accordingly, as these Notices were mailed in error, they are hereby vacated.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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In re Application of
Hemant G. Rotithor et al
Application No. 10/877,356
Filed: June 25, 2004
Attorney Docket No. 42P16960X

ON PETITION

This is a decision on the petition filed November 19, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 16, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 17, 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.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Edwin H. Taylor
12400 Wilshire Boulevard, 7th FL
Los Angeles, CA 90025-1026

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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/20/2010

Applicant	: Ralph Teichmann	: DECISION ON REQUEST FOR
Patent Number	: 7596002	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: 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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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Sang Mook Lee :
Application No. 10/877,361 :
Filed: June 25, 2004 :
Attorney Docket No. 10125-4157 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed June 5, 2009.

This application for patent term adjustment was timely filed with payment of the Issue Fee on June 5, 2009. As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated 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 **one hundred sixty (160)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed on June 5, 2009, with payment of the issue fee.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Applicant's basis for the application for patent term adjustment is the miscalculation of delay from the October 30, 2006 mailing date of the Final Rejection instead of from the proper August 6, 2007 mailing date of the Notice of Restarted Response Period. As applicants' response was filed on January 7, 2008, applicant asserts that the period of applicant delay should be 62 days, not 244 days.

In this instance, applicants are correct. Any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As applicant's response was received three months and 62 days after the Notice of Restarted Response Period, the period of applicant delay within the meaning of §1.704(b) is 62 days (i.e. November 7, 2007 to January 7, 2008).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 160 days (224 days of Office delay reduced by 64 (2 + 62) days of applicant delay).

The Office acknowledges submission of authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Friday
Date: 8/28/2009

PALM INTRANET

Time: 11:36:59

PTA Calculations for Application: 10/877361			
Application Filing Date:	06/25/2004	PTO Delay (PTO):	224
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	246
Post-Issue Petitions:	0	Total PTA (days):	160
PTO Delay Adjustment:	182		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	08/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
94	08/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	244		
86	03/06/2009	MAIL NOTICE OF ALLOWANCE			
85	03/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
84	03/03/2009	ISSUE REVISION COMPLETED			
83	03/03/2009	DOCUMENT VERIFICATION			
82	03/03/2009	EXAMINER'S AMENDMENT COMMUNICATION			
81	03/03/2009	NOTICE OF ALLOWABILITY			
55	12/12/2008	DATE FORWARDED TO EXAMINER			
54	12/09/2008	AMENDMENT AFTER FINAL REJECTION			
53	09/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
52	09/08/2008	FINAL REJECTION			
51	07/15/2008	DATE FORWARDED TO EXAMINER			
50	06/13/2008	RESPONSE AFTER NON-FINAL ACTION			
49	03/21/2008	MAIL NON-FINAL REJECTION			
48	03/17/2008	NON-FINAL REJECTION			
47	01/11/2008	DATE FORWARDED TO EXAMINER			
46	01/07/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	01/11/2008	DATE FORWARDED TO EXAMINER			
44	01/07/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		244	31
43	01/11/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	01/07/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
41	11/27/2007	MAIL ADVISORY ACTION (PTOL - 303)			

40	11/26/2007	ADVISORY ACTION (PTOL-303)			
39	11/20/2007	DATE FORWARDED TO EXAMINER			
38	11/08/2007	AMENDMENT AFTER FINAL REJECTION			
37	08/06/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
36	08/02/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
35	06/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	06/12/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
33	06/11/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
32	06/07/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	02/08/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	02/05/2007	FINAL REJECTION			
29	11/30/2006	DATE FORWARDED TO EXAMINER			
28	10/30/2006	RESPONSE AFTER NON-FINAL ACTION		2	25
27	11/21/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	07/28/2006	MAIL NON-FINAL REJECTION			
24	07/24/2006	NON-FINAL REJECTION			
23	04/27/2006	DATE FORWARDED TO EXAMINER			
22	04/26/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
21	04/06/2006	MAIL RESTRICTION REQUIREMENT	224		-1
20	04/03/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/29/2004	PRELIMINARY AMENDMENT			
17	10/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	09/22/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	09/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	09/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	08/19/2004	APPLICATION RETURN FROM OIPE			
12	08/19/2004	APPLICATION RETURN TO OIPE			
11	08/19/2004	APPLICATION RETURN FROM OIPE			
10	08/19/2004	APPLICATION IS NOW COMPLETE			
9	08/19/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			

8	08/19/2004	APPLICATION RETURN TO OIPE			
7	08/19/2004	APPLICATION DISPATCHED FROM OIPE			
6	08/19/2004	APPLICATION IS NOW COMPLETE			
5	08/11/2004	CLEARED BY L&R (LARS)			
4	07/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	07/29/2004	CASE CLASSIFIED BY OIPE			
2	07/12/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Sang Mook Lee	: DECISION ON REQUEST FOR
Patent Number	: 7602467	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **540** 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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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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OFFICE OF PETITIONS

In re Application of :
Abhishek CHAUHAN :
Application No. 10/877,362 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. 22271-08784 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2005.

The request is **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 Rimma Budnitskaya on behalf of all attorneys of record who are associated with customer No. 00758

All attorneys/agents associated with the Customer Number 00758 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 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Abhishek Chauhan
107 Rio Vis
Los Gatos, CA 95032

cc: Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,362	06/25/2004	Abhishek Chauhan	22271-08784

CONFIRMATION NO. 3100

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000019775836

Date Mailed: 07/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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Date Mailed: September 11, 2007

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

Applicant: Kurganov
Appl. No.: 10/877,366
Filing Date: June 25, 2004
Title: COMPUTER, INTERNET AND TELECOMMUNICATIONS BASED NETWORK
Attorney Docket No.: 078616-1006
Pub. No.: US 2004/0258054 A1
Pub. Date: December 23, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 25, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/11/2007 KKING1
06/26/2007 INTEFSW 00001553 10877366
01 FC:1504 -300.00 DP

Refund Ref:
09/11/2007 0030044602

Credit Card Refund Total: $300.00

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Date Mailed: September 11, 2007

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

Applicant: Kurganov
Appl. No.: 10/877,367
Filing Date: June 25, 2004
Title: COMPUTER, INTERNET AND TELECOMMUNICATIONS BASED NETWORK
Attorney Docket No.: 078616-1007
Pub. No.: US 2004/0258055 A1
Pub. Date: December 23, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on May 22, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/11/2007 KKING1
05/23/2007 INTEFSW 00017964 10877367
01 FC:1504 -300.00 OP

Refund Ref:
09/11/2007 0030044601

Credit Card Refund Total: $300.00

VISA....: XXXXXXXXXXXX5634

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ADAMS EVANS P.A.
2180 TWO WACHOVIA CENTER
301 S. TRYON STREET
CHARLOTTE, NC 28282

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Charles Baloga :
Application No. 10/877,372 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.47(b)
For: ANTI-THEFT LOCK ASSEMBLY :
:

This is in response to the "Petition Under 37 CFR 1.47(b)," filed October 7, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of W. Thad Adams, III, the attorney of record, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Britax Child Safety, Inc. (Britax) has a proprietary interest in the above-identified application with the copy of the assignment document. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

Please note, it is assumed that the last known address of the inventor is the address given on the Declaration.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to Technology Center 3600 for examination *in due course*.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS CHARLES BALOGA
700 BEACON KNOLL LANE
FORT MILL, SC 29715

In re Application of
Thomas Charles Baloga
Application No. 10/877,372
Filed: June 25, 2004
For: ANTI-THEFT LOCK ASSEMBLY

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

Dear THOMAS CHARLES BALOGA:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

ADAMS EVANS P.A.
2180 TWO WACHOVIA CENTER
301 S. TRYON STREET
CHARLOTTE, NC 28282

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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Lethe et al.	:	DECISION ON
Patent Number: 7,563,870	:	APPLICATION FOR
Issue Date: 07/21/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/877373	:	and
Filing or 371(c) Date: 06/25/2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: L0461.70066US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 21, 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 four hundred eighty-five (485) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 26, 2007 and ends on January 8, 2008, the day before the RCE was filed, and is 197 (not 198) days. See, 35 U.S.C. 154(b)(1)(B)(i).

As such, the patent term adjustment is 484 days, not 485 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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred eighty-four (484) days**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,870 B2

DATED : **July 21, 2009**

INVENTOR(S) : Lethe 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 287 days.

Delete the phrase "by 287 days" and insert – by 484 days--

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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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

MAIL

SEP 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Sprague, et al.
Application No. 10/877,382
Filed: June 25, 2004
For: STYLUS WRITING ARCHITECTURES FOR ERASABLE PAPER

DECISION ON REQUEST TO WITHDRAW FROM RECORD

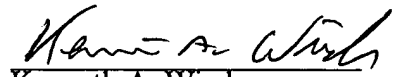
This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on August 06, 2004

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 associated with Customer Number 21269 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: Steven J. Moore
Pillsbury Winthrop, LLP
Financial Centre, 695 East Main Street, P.O. Box 6760
Stamford, CT 06804-6760

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FEB 17 2005

Ray R. Regan
LAW OFFICE OF RAY R. REGAN, P. A.
P.O. Box 1442
Corrales NM 87048

In re Application of
Walter F. Schuman et al
Serial No.: 10/877,406
Filed: June 24, 2004
For: Implant Placement System

DECISION ON PETITION

This is in response to applicants' petition filed June 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(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, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

COPY MAILED

NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Wong, Tsai & Qu :
Application No.: 10/877,413 :
Filed: June 25, 2004 :
Attorney Docket No.: 30320/19145 :
For: VARIABLE OPTICAL ATTENUATOR MULTIPLEXER WITH A THERMAL ISOLATING OPTICAL JOINT

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 9, 2004 (certificate of mailing date September 7, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 25, 2004 without an executed oath or declaration. On August 19, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed. This Notice required petitioners to file an executed declaration and a surcharge for its late filing.

Petitioners filed a declaration signed by 2 of 3 joint inventors, the surcharge, the instant petition and required petition fee on September 9, 2004 (certificate of mailing date September 7, 2004). A statement of facts by Attorney Keith R. Jarosik accompanies the petition. Attorney Jarosik states that the application papers were mailed to non-signing inventor Tsung-Ein Tsai at his last known address, but the mailing was returned without any forwarding information. Petitioners allege Mr. Tsai cannot be reached.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that Mr. Tsai cannot be located.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached. One returned mailing does not meet the required level of diligence that must be shown in order to obtain Rule 47 status.

Petitioners should engage in further efforts to locate Mr. Tsai. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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FEB 2 5 2005

OFFICE OF PETITIONS

In re Application of
Wong, Tsai & Qu
Application No.: 10/877,413
Filed: June 25, 2004
Attorney Docket No.: 30320/19145
For: VARIABLE OPTICAL ATTENUATOR MULTIPLEXER WITH A THERMAL ISOLATING OPTICAL JOINT

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 27, 2005 (certificate of mailing date January 25, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventor, Tsung-Ein Tsai, cannot be located. Specifically, the declaration/statement of facts of Michael R. Hull establishes that despite attempts to locate the inventor through the mail and Internet searches that Mr. Tsai cannot be located. Petitioners have dilgently searched for Mr. Tsai. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Regarding finances, only one petition fee is required. Therefore, the $130.00 petition fee submitted with the instant petition and the $70.00 erroneously charged to petitioners' deposit account on February 3, 2005 will be credited to deposit account no. 13-2855.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,059,076
Appl. No. : 10/877,426
Inventor(s) : Stoner et al.
Issued : Jun. 13, 2006
Title : FIREARM RAIL SYSTEM
Docket No. : 9050C

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.

A certificate will issue for the remaining error(s) in your request.

Stacy Powell, Sr.
For Cecelia B. Newman, Supervisor
Decisions & Certificates of
Correction Branch
(703) 308 - 9390 ext. 120 or (703) 305 - 8228

Mark E. Ogram
7454 E. Broadway ste 203
Tucson AZ 85710

CBN/spsr

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LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Roberto Crea	:	
Application No.: 10/877467	:	DECISION ON
Filing or 371(c) Date: 06/25/2004	:	PETITION
Attorney Docket Number: BRI-001	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed October 23, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment ("Notice"), mailed January 22, 2007. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 23, 2007. A Notice of Abandonment was mailed September 6, 2007.

Applicant files the present petition and Amendment in response to the Notice. 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 Technology Center Art Unit 1639 for processing of the reply to the Notice 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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JAN 31 2005
PATENT & TRADEMARK OFFICE

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date: January 27, 2005

Application Serial No.:		10/877,469
Applicant	:	Harjit Singh
Filed	:	June 25, 2004
Title	:	Powdered Natural Dairy Additive for a Consumable Beverage and Method of Manufacturing Same
T.C./A.U.	:	1761
Examiner	:	Anthony J. Weier
Docket No.	:	7513-04418

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700 FEB 18 2005

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Sir:

Applicant hereby petitions to make the above-captioned application special because of the ongoing, actual infringement of the claims of the subject application. The subject application is a continuation of U.S. Application Serial No. 09/898,968, which resulted in U.S. Patent No. 6,777,014. A declaration of the Applicant, Mr. Harjit Singh, is attached hereto as Exhibit A in support of this petition.

As attested to by Mr. Singh, there is an infringing device or product actually on the market or method in use; a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and, in Mr. Singh's opinion, some of the claims are unquestionably infringed; and Mr. Singh 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. More particularly, with respect to a search of the prior art, such a search was conducted by the U.S. Patent and Trademark Office in connection with the subject application's parent application. As

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01 FC:1464 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hana Verny
PETERS, VERNY, JONES & Schmitt LLP
Suite 230
425 Sherman Avenue
Palo Alto, CA 94306

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MAR 14 2007

OFFICE OF PETITIONS

In re Patent of Lenker	:	
Patent No. 7,100,324	:	
Issue Date: September 5, 2006	:	Decision on Petition
Application No. 10/877,471	:	
Filing Date: June 26, 2004	:	
Attorney Docket No. 2897.23-2	:	

This is a decision on the petition under 37 CFR 1.182, filed November 6, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

The fee for a petition under 37 CFR 1.182 is $400. Petitioner submitted $130. Therefore, $270 has been charged to petitioner's deposit account.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

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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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 18 2008

OFFICE OF PETITIONS

In re Application of :
Bruce Greenblatt, et al. :
Application No. 10/877,501 : DECISION ON PETITION
Filed: June 24, 2004 : TO WITHDRAW
Attorney Docket No. 021154-001010US : 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 11, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on February 25, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER KAES
ROCKET SOFTWARE, INC.
275 GROVE STREET, 1-300
NEWTON, MA 02466

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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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NOV 10 2008

In re Application of :
Harry Printz :
Application No. 10/877,520 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. AGLE0062 :

This is a decision on the petition filed November 7, 2008, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on October 7, 2008, with the issue fee being due on or before January 7, 2009. The the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of October 7, 2008, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2626.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of :
Harry Printz :
Application No.: 10/877,520 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No.: AGLE0062 :

This is a decision on the petition, filed April 15, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 10, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2626 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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JUL 28 2009

OFFICE OF PETITIONS

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of
Harry Printz
Application No. 10/877,520
Filed: June 25, 2004
Attorney Docket No. AGLE0062

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(a)

This is a decision on the petition filed July 27, 2009 which is being treated under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on April 27, 2009, with the issue fee being due on or before July 29, 2009. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

The matter is being referred to Technology Center AU 2626 for appropriate processing of the RCE filed July 27, 2009, and for consideration of the concurrently filed amendment.

/KOC/
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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Paper No.

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

MAILED

APR 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,485,704	:	
Robert L. Fahrner et al.	:	DECISION DISMISSING
Application No. 10/877,532	:	REQUEST FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Filed: June 24, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: GNE-0197.US (P2015R1)	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed on February 25, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and fifty-seven (257) to three hundred and forty-five (345) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

OPINION

On February 3, 2009, the application matured into U.S. Patent No. 7,485,704, with a revised patent term adjustment of 257 days.

On February 25, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentees argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 (JR), that it is entitled to a total patent term adjustment of 345 days, which is the sum of the 88 days of patent term adjustment due to exceeding the three year pendency plus 408 days due to USPTO delay in prosecution, minus the 151 days of applicant delay that the revised determination of patent term adjustment indicated on the patent should be 345 days.

It is noted that a Request for Continued Examination (RCE) was filed 3 years and 88 days after the filing date of this application.[1] 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). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 88 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 408 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered.

It follows that the proper period of adjustment for Office delay was properly calculated to be 408 days.

In view thereof, the patent issued with a revised patent term adjustment of 257 (408 - 151) days.

---

[1] Pursuant to 37 C.F.R. § 1.702(b)(5), the term of a patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed, but not including "[a]ny delay in the processing of the application by the Office that was requested by the applicant."

Patentees argue that the determination of 257 days is in error 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) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 88 days.[2] This 88-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on June 24, 2004, and a RCE was filed on September 20, 2007, which is three years and 88 days after the filing of this application.

In short, patentees do not agree with the Office's determination that the period of delay of 88 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 408 days attributable to grounds specified in § 1.702(a)(1).

The period of reduction of 151 days for applicant delay is not in dispute. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (88 days) and the period of Examination Delay (408 days) less the period of Applicant Delay (151 days) to the extent that these periods of delay are not overlapping.

As such, patentees assert entitlement to a patent term adjustment of 345 days (88 plus 408 reduced by 151).

The Office agrees that an RCE was filed 3 years and 88 days after the filing date of this application. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 408 days for Office delay and 151 days for Applicant delay are correct. At issue is whether the period of delay of 88 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 408 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the period of 408 days attributable to grounds specified in § 1.702(a)(1) overlaps with these 88 days. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of

[2] See petition, page 2.

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 (June 15, 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[3]

As such, the period for over 3 year pendency does not, as argued by patentees, 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. Patentees are incorrect in treating the relevant period as starting on June 24, 2007, the date that is 3 years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, June 24, 2004 to September 20, 2007 (the date on which the RCE was filed). (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 257 days of patent term adjustment were accorded since the period of delay of 88 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 408 days attributable to grounds specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered 257 days (408 - 151 days) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 257 days. The patent properly issued with this indication contained thereon, and no further action is required.

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[3] 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).

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[4] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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[4] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[5]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 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;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in

---

[5] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

an international application and ending on the date a patent was issued, but not including the sum of the following periods[6]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

---

[6] (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;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or 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, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

CONCLUSION

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Patentee's Deposit Account in due course, as authorized on the third page of this petition. No additional fees are required. Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMBRIDGE MA 02139

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Fryszman et al.	:	
Application No. 10/877,534	:	DECISION ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No. 34055	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1626 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CAMBRIDGE MA 02139

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of
Olga M. Fryszman et al
Application No. 10/877,534
Filed: June 25, 2004
Attorney Docket No. 34055

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed November 19, 2008, (a Notice of Noncompliant Amendment was mailed on May 8, 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 Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received March 19, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/877542 Patent No.: 7213710 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the director's/SPE's response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Mickey Yu
Supervisory Patent Examiner
SPE Group 3700

3728
Art Unit

PAGE 1/1 * RCVD AT 4/22/2008 8:03:03 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/34 * DNIS:2709990 * CSID:7033087763 * DURATION (mm-ss):01-08

UNITED STATES PATENT AND TRADEMARK OFFICE

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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

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JUL 03 2006

OFFICE OF PETITIONS

In re Application of :
James B. Prince :
Application No. 10/877,546 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 10040538-1 :

This is a decision on the petition, filed June 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2872 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JAMES C. SIMMONS
THE LAW OFFICE OF JAMES C. SIMMONS
11 FALMOUTH LANE
WILLIAMSVILLE NY 14221

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Ronald L. Plesh :
Application No. 10/877,571 : ON PETITION
Filed: 25 June, 2004 :
For: ROLLERS MOUNTABLE TO A :
COOLING BED PLATE TRANSFER GRID :

This is a decision on the petition under 37 CFR 1.137(a), filed on 16 June, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 11 November, 2004, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 10 September, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 June, 2005.

Petitioner asserts that the delay was unavoidable because of a docketing error. Specifically, petitioner's counsel inadvertently docketed the reply as due on 10 December, 2004, when the reply was actually due on 10 November, 2004. Additionally, petitioner states that the application number on the reply contained a typographical error.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner's arguments have been considered, but are not persuasive. With regard to petitioner's contention that the application was unavoidably abandoned due to a docketing error, this point is not well taken because petitioner's registered patent attorney concededly docketed the application himself. Whether the failure to file a timely reply due to a clerical error is immaterial because petitioner's registered patent attorney performed the clerical function himself.

While petitioner is correct that a clerical error may constitute unavoidable delay, the error in this case is a mistake by counsel himself rather than a clerical error by a reliable and trusted employee. Mistakes by an attorney, unlike those of an employee of counsel, are not a source of unavoidable error.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[3] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[4]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[5] 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

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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."

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[4] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[5] Id.

"unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[6]

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioner's counsel in failing to timely file a reply rather than as a result of unavoidable delay. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[7] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

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[6] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[7] 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 continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
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

Encl: PTO/SB/64
Privacy Act Statement

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald L. Plesh	:	
Application No. 10/877,571	:	ON PETITION
Filed: 25 June, 2004	:	
For: ROLLERS MOUNTABLE TO A COOLING BED PLATE TRANSFER GRID	:	

This is a decision on the renewed petition under 37 CFR 1.137(a) filed on 11 August, 2005, to revive the above-identified application.

The petition is **denied**.[1]

BACKGROUND

This application became abandoned on 11 November, 2004, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 10 September, 2004 (hereafter "Notice"), which set a two (2) month shortened period for reply. A Notice of Abandonment was mailed on 10 June, 2005.

On 16 June, 2005, a petition under 37 CFR 1.137(a) was filed. In that petition, petitioner asserted that the delay was unavoidable because it was attributed to a docketing error. Specifically, petitioner's counsel inadvertently docketed the reply to the Notice as due on 10 December, 2004, rather than 10 November, 2004. Petitioner further indicated that a reply to the Notice was mailed on 23 November 2004, but that the reply identified an incorrect application number and did not include an extension of time under 37 CFR 1.136(a).

[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

The petition was dismissed on 19 July, 2005

STATUTE AND REGULATION

35 U.S.C. § 133 states that:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR 1.137(a) provides:

(a) *Unavoidable*. If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. 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(l);

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

ANALYSIS

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy

> agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner argues that a docketing error made by an applicant's attorney "acting as a docketing clerk" may serve as a proper basis for finding unavoidable delay within the meaning of 35 U.S.C. 133. It is noted that petitioner has not cited any authority holding that a docketing error made by applicant's attorney, as opposed to a reliable employee of the attorney, may serve as a basis for finding unavoidable delay. To the contrary, it is well-settled that such mistakes by an applicant's attorney will not establish unavoidable delay.[4] This distinction was addressed long ago by the Seventh Circuit in *Lay v. Indianapolis Brush & Broom Mfg. Co.*[5]

> [T]he other assumption is that, if the complainants failed in their application through the negligence of

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[4] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982); Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130)(delay resulting from counsel's preoccupation with other matters is not unavoidable delay and is binding on petitioner).

[5] 120 F. 831 (1903).

> their attorney, the delay would be unavoidable which is wholly unwarranted in the law. It is of the very nature of negligence that it should not be unavoidable otherwise it would not be actionable. The negligence of the attorney would be the negligence of the [client]. The purpose of the statute was to put an end to such pleas, and there would be no limit to a renewal of these applications if every application, however remote, could be considered under the plea of negligence of attorneys, by whom their business is generally conducted.[6]

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[7] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[8]

Moreover, even assuming, arguendo, that a docketing error by applicant's attorney should be treated analogous to a docketing error made by an employee in the performance of a clerical function, the petition still could not be granted. As set forth in MPEP 711.03(c), to establish "unavoidable delay" based on a docketing error, petitioner must show:

> *(A) the error was the cause of the delay at issue;*
> *(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

In the present case, counsel's docketing error was not the cause of the delay at issue, as required under (A). Counsel's error in docketing the reply for December 10, rather than November 10, merely caused the reply to be prepared after the two-month period set in the Notice but still well within the extendable period for

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[6] Id. at 836.

[7] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[8] Haines v. Quigg, 673 F. Supp. 314, 316-317, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

reply under 37 CFR 1.136(a). However, in preparing the reply mailed 23 November 2004, counsel made further errors that caused the delay at issue. Specifically, counsel failed to: 1) carefully read the Notice and recognize that a one-month extension of time was needed; and 2) correctly identify the U.S. application number on the reply.[9] Indeed, counsel concedes these points in the petition filed on 16 June 2005:

> I was careless in the docketing, in providing an incorrect serial number, and in failing to notice that an extension of time was needed at the time the reply was mailed. I have committed myself to be more careful in docketing office actions in the future and in ascertaining that I am within the due dates and have listed the correct heading information when mailing replies to office actions.[10]

Finally, petitioner cites the case of *In re Decision Dated Feb. 18, 1969*,[11] in which it was held that an attorney's reasonable misinterpretation of a rule was sufficient for holding a delay to be unavoidable.[12] This case is inapposite to the present situation, however, because petitioner's counsel does not allege a reasonable misinterpretation of any rule. Rather, the instant application became abandoned because of multiple admittedly careless mistakes. The record in this case fails to show that petitioner exercised the care or diligence that is generally used and observed by prudent and careful persons with respect to their most important business.

OPINION

The decision of 11 August, 2005, has been reconsidered, but for the reasons given in the previous decision and noted above, the delay in this case has not been shown to have been unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the application will not be revived under the provisions of 35 U.S.C. § 133 and 37 CFR 1.137(a), and the case remains abandoned.

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[9] Had the reply been directed to the correct application, the Office would have notified petitioner of the need for an extension of time well within the extendable period for reply.

[10] Page 3 of petition.

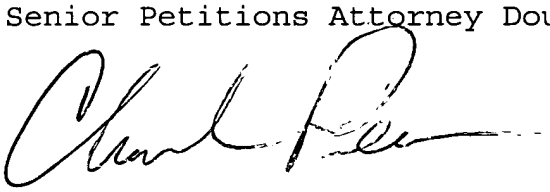
[11] 162 USPQ 383 (Comm'r Pats. 1969).

[12] Id. at 384.

Nevertheless, petitioners may wish to *promptly* seek revival under the provisions of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). The filing of that petition can not be intentionally delayed.

This abandoned file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.



Charles A. Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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WILLIAMSVILLE NY 14221

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OFFICE OF PETITIONS

In re Application of	:	
Ronald L. Plesh	:	
Application No. 10/877,571	:	DECISION ON PETITION
Filed: 25 June, 2004	:	
For: ROLLERS MOUNTABLE TO A	:	
COOLING BED PLATE TRANSFER GRID	:	

This is a decision on the petition filed on 21 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

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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 application became abandoned on 11 November, 2004, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 10 September, 2004, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 10 June, 2005. A petition under 37 CFR 1.137(a) was filed on 16 June, 2005, and was dismissed on 19 July, 2005. A renewed petition was filed on 11 August, 2005, and was denied on 26 September, 2005.

The present petition is accompanied by a substitute specification.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Moll et al.	:	
Application No. 10/877580	:	DECISION ON APPLICATION
Filing or 371(c) Date: 06/25/2004	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
2287	:	

This is a decision on the "Letter Regarding Patent Term Adjustment Determination," filed July 31, 2007. Applicant requests review of the Patent Term Adjustment determination, in particular, the 21 day term extension determined by the Office for the time period extending from the March 27, 2006, Response after non-final Action to the April 17, 2006, filing of the Information Disclosure Statement ("IDS").

The application for patent term adjustment is **DISMISSED**.

On June 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 77 days.

On July 31, 2007, applicant timely submitted the instant application for patent term adjustment[1]. Applicant requests review of the Patent Term Adjustment determination, in particular, the 21day term extension determined by the Office for the time period extending from the March 27, 2006, Response after non-final Action to the April 17, 2006, filing of the Information Disclosure Statement ("IDS").

Applicant does not dispute the delay of 133 days attributed to the Office under 1.702(a), for failing to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). Nor does Applicant dispute the delay of 35 days attributed to Applicant

[1] PALM records show that the Issue Fee payment was received in the Office on September 28, 2007.

under 37 CFR 1.704(b), for filing a reply to the non-final Office action, mailed December 29, 2006, more than three (3) months after the mail date of the Office action.

Regarding the delay of 21 days attributed to Applicant under 37 CFR 1.704(c)(8), for filing the IDS on April 17, 2006, after filing the response to the non-final Office action on March 27, 2006,

37 CFR 1.704(c)(8) states:

> 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 MPEP 2732 explains:

> 37 CFR 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply. 37 CFR 1.704(c)(8) does not apply to a supplemental reply or other paper that was expressly requested by the examiner. If an amendment is requested by an examiner, the examiner will have the paper processed so that it is included as part of an interview summary or examiner's amendment and not a separate paper for PALM to flag in the patent term adjustment calculation. 37 CFR 1.704(c)(8) also provides that in such a case the period of adjustment set forth in 37 CFR 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 such other paper was filed.

In this instance, after filing a response (Amendment), on March 27, 2006, applicants filed a supplemental response, an Information Disclosure Statement (IDS), on April 17, 2006. The record supports a conclusion that this additional response was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement[2]. Accordingly, the PTA should have been reduced by 21 days, the number of days beginning on the day after the date the initial reply was filed, March 28, 2006, and ending on the date that the second supplemental reply or other such paper was filed, April 17, 2006.

---

[2] A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable. 37 CFR 1.704(d) (Emphasis supplied).

Applicant failed to include a statement that complies with 37 CFR 1.704(d). As such, the delay of 21 days was thus properly attributed to Applicant.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is seventy-seven (77) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicant's deposit account has been charged the petition fee of $200.00 fee set forth in 37 CFR 1.18(e), as authorized in the Transmittal Form filed with the application.

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 Petitions Attorney Derek L. Woods at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAILED

APR 03 2006

Technology Center 2100

In re Application of:
Yan ARROUYE et al.
Application No. 10/877,584
Filed: June 25, 2004
For: METHODS AND SYSTEMS FOR MANAGING DATA

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 26 January 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

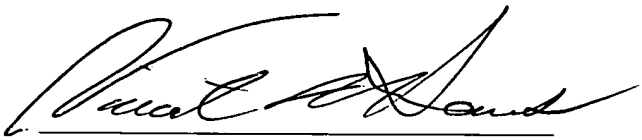
In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission filed 26 January 2006 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularly requirement by 37 CFR § 1.111(b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims are specifically distinguishable and patentable from the references provided pursuant to requirement (e) supra.

Applicant's petition provided no discussions of the references and how the claimed subject matter is patentable over the references.

Accordingly, the petition is **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.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025

MAILED

MAY 24 2007

Technology Center 2100

In re Application of:
Yan ARROUYE, et al
Application No. 10/877,584
Filed: June 25, 2004
For: METHODS AND SYSTEMS FOR MANAGING DATA

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 05 June 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submissions of 05 June 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the

Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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SUITE 100
NORTH HOLLYWOOD CA 91607-3442

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OFFICE OF PETITIONS

Applicant: Matthews et al.
Appl. No.: 10/877,600
Filing Date: June 24, 2004
Title: ACCESSORY DEVICES FOR FIREARMS
Attorney Docket No.: 10468CIP
Pub. No.: US 2005/021762 A1
Pub. Date: October 6, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 6, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the publication includes the abstract, specification and abstract of another 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 request is dismissed, as the paper was not signed in compliance with 37 CFR 1.31-1.34, 37 CFR 10.14, 37 CFR 10.18, and 37 CFR 10.47. Applicant is reminded that only registered practitioners may practice before the Office.

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

[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).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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11/16/09

Patent No. :7489856
Ser. No. :10/877636
Inventor(s) : William R. Haller
Issued : 2/10/09
Title : ELECTRICAL DEVICE FOR AUTOMATICALLY ADJUSTING OPERATING SPEED OF A TOOL BASED ON TOOL WEAR
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
Decisions & Certificates
of Correction Branch
(703) 756-1571

ROBERT BAUER ESQ.
MAC DONALD, Illig, JONES & BRITTON, LLP
100 STATE STREET-SUITE 700
Erie, PA 16507-1459

HR

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

11/10/09

Patent No. :7489856
Inventor(s) :William R. Haller
Issued : 2/10/2006
Title : ELECTRICAL DEVICE FOR AUTOMATICALLY ADJUSTING OPERATING SPEED OF A TOOL BASED ON TOOL WEAR
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals col. 8 line 5 is printed in accordance. A fee of $100 is required. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

ROBERT BAUER, Esq.
MacDONALD, Illig, JONES & BRITTON, LLP
100 STATE STREET – SUITE 700
ERIE, PA 16507-1459

HR

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NEW YORK NY 10016

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FEB 16 2010

In re Patent No. 7,489,856 :
Issue Date: February 10, 2009 :
Application No. 10/877,636 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 52425.005 :

This is a decision on the petition, filed, December 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Thor Power Corp" and that an incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Thor Power Corp" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of : LETTER REGARDING
Martin Mikulecky : PATENT TERM ADJUSTMENT
Application No.: 10/877,643 :
Filed: June 25, 2004 :
Attorney Docket No. 15786-052001 :

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed August 5, 2009. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

The request for review of determination of the patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight-hundred ninety-five (895) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On May 5, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 921 days. On August 5, 2009, applicant submitted the instant comment. Applicant discloses that applicant believes that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed May 5, 2009, is incorrect. Specifically, applicant states that:

> There is a discrepancy between PTA as shown on the Notice of Allowance and the Applicant's calculation of PTA. PAIR indicates a total PTA of 921 days which differs from the Applicant's calculation of 895 days due to the Information Disclosure Statement being filed after the filing of the response to an Office action. Office Action which was mailed on April 1, 2008, was responded to on July 30, 2008. After the filing of this response, Applicant filed an Information Disclosure Statement...on August 25,

> 2008, which caused additional Applicant delay of 26 days. Therefore, the actual Applicant's delay should be 55 days Resulting in the total PTA of 895 days.

Excerpt from "Letter Regarding Patent Term Adjustment" filed August 5, 2009, page 1

A review of the application history reveals that an Information Disclosure Statement was filed on August 25, 2008, 26 days after a response to a non-final Office action was filed on July 30, 2008. 37 CFR 1.704(c)(8) provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, 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 the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

> (d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

The Information Disclosure Statement filed August 25, 2008, was filed 26 days after the response to the non-final Office action

was filed on July 30, 2008. A review of the Information Disclosure Statement filed August 25, 2008, reveals that it did not include the proper statement under 1.704(d). Furthermore, the record does not show that the Examiner expressly requested the filing of the Information Disclosure Statement on August 25, 2008.

Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of twenty-six (26) days will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is eight hundred ninety-five (895) days.

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the $200.00 application fee under 37 1.18(e). The Office thanks applicant for his good faith and candor in bringing this to the attention of the Office.

Applicant is 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 applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

Telephone inquiries regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday
Date: 11/17/2009

PALM INTRANET

Time: 14:48:36

PTA Calculations for Application: 10/877643			
Application Filing Date:	06/25/2004	PTO Delay (PTO):	950
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	895
PTO Delay Adjustment:	-26		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	11/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		26	
77	05/05/2009	MAIL NOTICE OF ALLOWANCE			
76	04/30/2009	ISSUE REVISION COMPLETED			
75	04/30/2009	DOCUMENT VERIFICATION			
74	04/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	04/27/2009	NOTICE OF ALLOWABILITY			
72	03/10/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	03/18/2009	DATE FORWARDED TO EXAMINER			
70	03/10/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
69	03/18/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
68	03/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	03/10/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
66	01/28/2009	FINISHED INITIAL DATA CAPTURE			
65	12/15/2008	EXPORT TO INITIAL DATA CAPTURE			
64	12/13/2008	ELECTRONIC REVIEW			
63	12/13/2008	EMAIL NOTIFICATION			
62	12/13/2008	EMAIL NOTIFICATION			
61	12/13/2008	EMAIL NOTIFICATION			
60	12/12/2008	MAIL EXAMINER'S AMENDMENT			
59	12/12/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	12/12/2008	MAIL NOTICE OF ALLOWANCE			
57	12/08/2008	ISSUE REVISION COMPLETED			

56	12/08/2008	DOCUMENT VERIFICATION			
55	12/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	12/08/2008	EXAMINER'S AMENDMENT COMMUNICATION			
53	12/08/2008	NOTICE OF ALLOWABILITY			
52	12/03/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	12/01/2008	AMENDMENT AFTER FINAL REJECTION			
50	12/02/2008	DATE FORWARDED TO EXAMINER			
49	12/01/2008	AMENDMENT AFTER FINAL REJECTION			
48	08/25/2008	REFERENCE CAPTURE ON IDS			
47	08/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	10/01/2008	ELECTRONIC REVIEW			
45	10/01/2008	EMAIL NOTIFICATION			
44	10/01/2008	MAIL FINAL REJECTION (PTOL - 326)			
43	09/28/2008	FINAL REJECTION			
42	08/25/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	08/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	07/30/2008	NEW OR ADDITIONAL DRAWING FILED			
39	08/25/2008	DATE FORWARDED TO EXAMINER			
38	07/30/2008	RESPONSE AFTER NON-FINAL ACTION		29	35
37	07/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	08/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
35	04/01/2008	MAIL NON-FINAL REJECTION	950		-1
34	03/30/2008	NON-FINAL REJECTION			
33	03/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	01/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	01/06/2008	TRANSFER INQUIRY TO GAU			
24	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
23	10/16/2007	FLAGGED FOR 5/25			
22	01/23/2007	TRANSFER INQUIRY TO GAU			
21	08/23/2006	TRANSFER INQUIRY TO GAU			
20	04/20/2006	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
19	03/17/2005	MISCELLANEOUS INCOMING LETTER			
18	03/17/2005	NEW OR ADDITIONAL DRAWING FILED			
17.7	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/25/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	04/10/2006	TRANSFER INQUIRY TO GAU			
14	04/10/2006	TRANSFER INQUIRY TO GAU			
13	03/17/2005	REFERENCE CAPTURE ON IDS			
12	08/18/2004	APPLICATION RETURN FROM OIPE			
11	08/18/2004	APPLICATION RETURN TO OIPE			
10	08/18/2004	APPLICATION RETURN FROM OIPE			
9	08/18/2004	APPLICATION IS NOW COMPLETE			
8	08/18/2004	APPLICATION RETURN TO OIPE			
7	08/18/2004	APPLICATION DISPATCHED FROM OIPE			
6	08/18/2004	APPLICATION IS NOW COMPLETE			
5	08/12/2004	CLEARED BY L&R (LARS)			
4	08/03/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	08/03/2004	CASE CLASSIFIED BY OIPE			
2	07/16/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/25/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Martin Mikulecky	: DECISION ON REQUEST FOR
Patent Number	: 7636096	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1134** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Martin Mikulecky
Patent Number : 7636096
Issue Date : 12/22/2009
Application No: 10/877,643
Filed : 06/25/2004

: 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 **1241** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/18/09

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 10877644 Patent No.: 7577677

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
Approved in Part	Specify below which changes **do not** apply.
Denied	State the reasons for denial below.

Comments: approved. /David Jung 1/11/2010/

SPE (Zand)'s signature is below

/KAMBIZ ZAND/ AU2434
SPE **Art Unit**

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OFFICE OF PETITIONS

In re Application of	:	
Eom et al.	:	
Application No.: 10/877,684	:	DECISION ON
Filing or 371(c) Date: 06/25/2004	:	PETITION
Attorney Docket Number: 8054-59	:	

This is a decision in response to the Petition to Withdraw Notice of Abandonment Under 37 C.F.R.§ 1.181(a), filed October 31, 2006. The delay in treating this petition is regretted.

This Petition is **dismissed**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 7, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). The Office action was returned undelivered by the United States Postal Service ("USPS") to this office on March 16, 2006. A Notice of Abandonment was mailed on September 15, 2006, and was returned undelivered by the USPS to this office on September 25, 2006

Applicant's assertion

Applicant asserts non-receipt of the Office action, and in support of the assertion files copies of his file jacket and docket records indicating that the office action was not received. Applicant acknowledges his failure to timely file a Change of Correspondence Address; however, Applicant avers that this office shares responsibility in his failure to receive the office action because an Information Disclosure Statement ("IDS") was filed prior to the March 7, 2006 Office action which included Applicant's new correspondence address. Applicant alleges that the Examiner, upon receipt of the returned mail, could have looked at the IDS and easily determined the correct mailing address, or telephone the Applicant regarding the undelivered mail.

Analysis and conclusion

Applicant is advised that it is applicant's responsibility to provide this Office with the correct correspondence address. As provided in the MPEP 601.03, "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code)."

Applicant asserts that the correct correspondence address was filed in the IDS; however, 37 CFR 1.4(c) requires "each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Applicant was responsible for promptly notifying this Office of the change of correspondence address. Moreover, diligence requires an Applicant to keep appraised as to the status of his or her application. See, Winkler v. Ladd, 221 F.Supp 550 (D.D.C. 1963). Here, the Office action provided for a three (3) month reply period, and an additional three (3) months of extensions of time were available. Applicant filed the IDS on August 24, 2005. Applicant was unaware of the mailed Office action until the Examiner telephoned the Applicant over a year after Applicant filed the IDS, on September 11, 2006.

The petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $1,500, reduced to $750.00 for a small entity.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Eom et al.	:	
Application No.: 10/877,684	:	DECISION ON
Filing or 371(c) Date: 06/25/2004	:	PETITION
Attorney Docket Number: 8054-59	:	

This is a decision on the third petition to revive the application under 37 CFR 1.137(b), filed May 3, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 7, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). The Office action was returned undelivered by the United States Postal Service ("USPS") to this office on March 16, 2006. A Notice of Abandonment was mailed on September 15, 2006, and was returned undelivered by the USPS to this office on September 25, 2006

Applicant filed a petition to withdraw the holding of abandonment under 37 CFR 1.181, on October 31, 2006, which was dismissed in a Decision mailed March 6, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The present petition

Applicant files the present petition and Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includs (1) the reply in the form of an Amendment; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2877 for processing of the Amendment filed with the petition, 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

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Date Mailed: August 29, 2008
Patent No. 7,264,527 B2
Ser. No. :10/877698
Inventor(s) :Moungi E. Bawendi, et al.
Title: QUANTUM DOT WHITE AND COLORED LIGHT-EMITTING DEVICES

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

Choate, Hall & Stewart LLP
Intellectual Property
Two International Pl.
Boston, MA 02110

MD/mt

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,264,527	:	
Issue Date: September 4, 2007	:	
Application No. 10/877,698	:	ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No. 0492611-0569/MIT-7699DIV	:	

This is a decision on the petition filed August 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Palo Alto, CA 94304

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OFFICE OF PETITIONS

In re Application of :
Stephen J. BENKOVIC et al. :
Application No. 10/877,729 : DECISION ON PETITION
Filed: June 25, 2005 : TO WITHDRAW
Attorney Docket No. 33-387-Q : 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 September 27, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that the attorneys associated with customer number 38706 do 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kevin E. Noonan
McDonnell, Boehnen, Hulbert & Berghoff LLP
300 S Wacker Drive, 32nd Floor
Chicago, IL 60606

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JOHN A. ARTZ
ARTZ & ARTZ, P.C.
SUITE 250
28333 TELEGRAPH ROAD
SOUTHFIELD, MI 48034

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OFFICE OF PETITIONS

In re Application of
John E. Petrovic, et al.
Application No. 10/877,731
Filed: June 25, 2004
Attorney Docket No. MAS 0111 PUS

ON PETITION

This is a decision on the petition, filed July 2, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **granted**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed November 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 8, 2007. *See* MPEP 1215.04. On July 2, 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 (1) the reply in the form of a substitute Appeal Brief; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3751 for consideration of response filed July 2, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Chad A. Mirkin et al :
Application No. 10/877,750 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 03-666-E :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 14, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 15, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1637 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
P O BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of	:	
Richard Snyder	:	
Application No. 10/877,759	:	DECISION GRANTING PETITION
Filed: June 25, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 57118.00003.UTL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 24, 2005. A Notice of Abandonment was mailed on October 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply to the nonfinal Office action of March 23, 2005; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 23, 2005 is accepted as having been unintentionally delayed.

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 $510 extension of time fee submitted with the petition on February 27, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2876 for appropriate action in the normal course of business on the reply received February 27, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

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OFFICE OF PETITIONS

In re Application of
Brandon R. Doering, James C. Harmon, and
James G. Shaw
Application No. 10/877,760
Filed: June 25, 2004
Attorney Docket No. 2687.EPSI.NP
Title: PUMP IMPELLER AND CHOPPER
PLATE FOR A CENTRIFUGAL PUMP

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 14, 2004[2].

On June 25, 2004, the application was deposited, identifying Brandon R. Doering, James C. Harmon, and James G. Shaw as joint inventors. The application was deposited without an oath or declaration. On August 13, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated October 11, 2004.

executed oath or declaration, a surcharge of $130.00, and additional claim fees were required. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted the petition fee, the surcharge, the basic filing fee, and additional claim fees. Petitioner has also included a declaration that has been executed by each of the joint inventors save inventor Doering.

The petition has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement, petitioner has not shown that a *complete* copy of the application was sent to the non-signing inventor. Petitioner has stated that she was informed by the non-signing inventor that he did not wish to execute the declaration. Petitioner then sent both a copy of the application to the non-signing inventor, as well as a form for the joint inventor to fill out which indicates that he declines to execute the declaration. However, Petitioner did not send a copy of the declaration to the non-signing inventor, as is required by MPEP 409.03(d). As such, the attempt to present the application papers to the non-signing inventor cannot be characterized as a bone fide attempt to secure his signature on the declaration, as the declaration was not provided to him.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the same does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the declaration before a petition under 37 CFR §1.47 is granted since in the instant case, the inventor was never given a chance to sign the declaration.

For these reasons, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Brandon R. Doering, James C. Harmon, and :
James G. Shaw :
Application No. 10/877,760 :
Filed: June 25, 2004 : DECISION ON RENEWED PETITION
Attorney Docket No. 2687.EPSI.NP :
Title: PUMP IMPELLER AND CHOPPER :
PLATE FOR A CENTRIFUGAL PUMP :

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed February 22, 2005.

On June 25, 2004, the application was deposited, identifying Brandon R. Doering, James C. Harmon, and James G. Shaw as joint inventors. The application was deposited without an oath or declaration. On August 13, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an executed oath or declaration, a surcharge of $130.00, and additional claim fees were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was submitted on October 14, 2004, along with a declaration that had been executed by each of the joint inventors save inventor Doering. The original petition was dismissed via the mailing of a decision on January 26, 2005, for failure to meet the fourth requirement above.

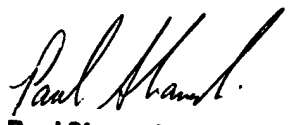
With this renewed petition, Petitioner has supplied a persuasive argument.

As such, the renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Brandon R. Doering
3862 Bingham Creek Road
West Jordan, Utah 84088

In re Application of
Brandon R. Doering, James C. Harmon, and James G. Shaw
Application No. 10/877,760
Filed: June 25, 2004
Attorney Docket No. 2687.EPSI.NP
Title: PUMP IMPELLER AND CHOPPER PLATE FOR A CENTRIFUGAL PUMP

COPY MAILED

MAR 18 2005

LETTER **OFFICE OF PETITIONS**

Dear Mr. Doering:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/01/10

TO SPE OF : ART UNIT 2182

SUBJECT : Request for Certificate of Correction for Appl. No 10/877,762.: 7631119 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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: Approved to enter. Examiner error based on Printer Rush 8/6/09. IIFW on 7/23/09 was correct, mistakenly renumbered IIFW on 8/31/09.

/Tariq R. Hafiz/ **2182**

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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Jeffrey C. Moore	: DECISION ON REQUEST FOR
Patent Number	: 7631119	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1416** 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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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Jeffrey C. Moore
Patent Number : 7631119
Issue Date : 12/08/2009
Application No: 10/877,762
Filed : 06/25/2004

: 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 **1455** 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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OFFICE OF PETITIONS

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Stevens, et al. :
Application No. 10/877,768 : ON PETITION
Filed: June 5, 2004 :
Attorney Docket No. 00967-052002 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed December 21, 2006. This Office action set a shortened statutory period for reply of three months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on March 22, 2007. A Notice of Abandonment was mailed on July 18, 2007.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 3747 for consideration of the Amendment filed August 23, 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

UNITED STATES DEPARTMENT OF COMMERCE
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Ian W. Kaye	: DECISION ON REQUEST FOR
Patent Number	: 7655337	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1607** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET, FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Richard WEBER, et al. :
Application No. 10/877,773 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ABGENIX.087A** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1644 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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Paper No.

KNOBBE MARTENS
OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

OCT 02 2009

OFFICE OF PETITIONS

In re Application of :
Weber et al. :
Application No. 10/877,773 : ON APPLICATION FOR
Filed: June 25, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. ABGENIX.087A :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed March 2, 2009[1] (and resubmitted August 14, 2009. Applicants submit that the correct determination of patent term adjustment is one hundred seventy-seven (177) days, not fifty-six (56) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even 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. 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

[1] It is noted that subsequent to the filing of this first application for patent term adjustment, the application was withdrawn from issue.

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. As such, it is appropriate to dismiss as premature such a request.

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.

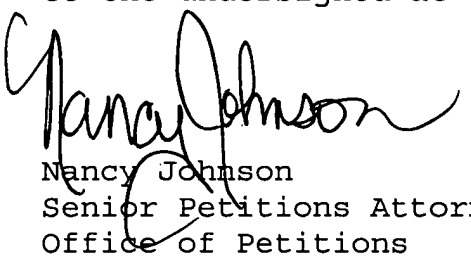
The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). No additional fees are required for such consideration.

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).

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 the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Richard Weber	: DECISION ON REQUEST FOR
Patent Number	: 7628986	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **183** 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
10/877,774	06/25/2004	1644	5328	ABGENIX.087A2	47	120	28

CONFIRMATION NO. 1612

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

UPDATED FILING RECEIPT

OC000000014666058

Date Mailed: 12/03/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Richard Weber, San Francisco, CA;
Xiao Feng, Union City, CA;
Orit Foord, Foster City, CA;
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Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/483,145 06/27/2003
and claims benefit of 60/525,570 11/26/2003
and claims benefit of 60/562,453 04/15/2004

Foreign Applications

If Required, Foreign Filing License Granted: 08/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/877,774

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Antibodies directed to the deletion mutants of epidermal growth factor receptor and uses thereof

Preliminary Class

424

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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 17 2009

OFFICE OF PETITIONS

In re Application :
Weber, et al. :
Application No. 10/877,774 : PATENT TERM ADJUSTMENT
Filed: June 25, 2004 :
Dkt. No.: ABGENIX.087A2 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 11, 2008. This matter is being treated as an application for patent term adjustment pursuant to the provisions of 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) as it relates to adjustment under 37 CFR 1.702(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 17, 2008, indicated a patent term adjustment (PTA) to date of 84 days. The instant application for PTA was timely filed November 11, 2008. Applicants argue that the application is entitled to an additional 108 days of adjustment under the provisions of 37 CFR 1.702(b).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests

for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See*, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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APR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Richard WEBER, et al. :
Application No. 10/877,774 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ABGENIX.087A2** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 November 11, 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 1644 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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MAR 29 2010

OFFICE OF PETITIONS

In re Application :
Weber, al. :
Application No. 10/877,774 : PATENT TERM ADJUSTMENT
Filed: June 25, 2004 :
Dkt. No.: ABGENIX.087A2 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed July 23, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 234 days, not 132 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and on the basis that the application should be accorded an additional one day reduction in connection with the petition to withdraw and request for continued examination (RCE) filed April 23, 2009.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the

USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The receipt is acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

Applicants also indicate that the application should be accorded an additional one day reduction in connection with the petition to withdraw from issue and RCE filed June 23, 2009.

Accordingly, the calculation of adjustment to date has been reviewed and the appropriate corrections have been made as set forth herein.

As acknowledged by applicants, the application is entitled to an adjustment of 267 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement on May 19, 2006.

The adjustment of 48 days is in error. In response to the Notice of Allowance and Issue Fee Due mailed October 17, 2008, the issue fee was paid on November 11, 2008. However, the application was withdrawn from issue and did not issue as a patent on April 28, 2009. Accordingly, application is not entitled to an adjustment of 48 days under 37 CFR 1.702(c)(4) in connection with the issue fee paid November 11, 2008.

Further review of the record reflects that the adjustment of 267 days is properly reduced four days in connection with the reply to the Notice to File Missing Parts (Notice) filed November 22, 2004. The Notice was mailed August 18, 2004. A reply was filed November 22, 2004. Thus, in accordance with 37 CFR 1.704(b), a reduction of four days is properly accorded. The reduction

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

commenced November 19, 2004, the day after the date that is three months after the date that the Notice was mailed, and ended November 22, 2004, the date that a reply to the Notice was filed.

As acknowledged by applicants, the adjustment is properly reduced 47 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed September 6, 2006.

As acknowledged by applicants, the adjustment is properly reduced 95 days in accordance with 37 CFR 1.704(b) in connection with the amendment filed April 16, 2007.

As acknowledged by applicants, the adjustment is properly reduced five days in accordance with 37 CFR 1.704(b) in connection with the amendment filed February 21, 2008.

As acknowledged by applicants, the adjustment is properly reduced 35 days in accordance with 37 CFR 1.705(c)(7) in connection with the amendment filed March 27, 2008.

As acknowledged by applicants, the adjustment is properly reduced one day in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) filed August 13, 2008.

Insofar as the application for patent term adjustment argues that the adjustment is subject to further reduction in connection with the submission dated April 23, 2009, the application is GRANTED IN PART.

Applicants argue that the adjustment should be reduced an additional one day in connection with the petition to withdraw from issue and the RCE filed April 23, 2009. However, the proper reduction in this regard is 63 days in accordance with 37 CFR 1.704(c)(10). The adjustment commenced April 23, 2009, the date that the RCE was filed, and June 24, 2009, the date that Notice of Allowance was mailed in response thereto.

In view thereof, as of the time of allowance, the application is entitled to an overall adjustment of 22 days (272 days of adjustments pursuant to 37 CFR 1.702(a)(1) less 250 days of reductions pursuant to 37 CFR 1.704).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

PTA Calculations for Application: 10/877774			
Application Filing Date:	06/25/2004	PTO Delay (PTO):	315
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	183
Post-Issue Petitions:	0	Total PTA (days):	22
PTO Delay Adjustment:	-110		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
214	03/25/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		110	
185	06/24/2009	MAIL NOTICE OF ALLOWANCE			
184	06/21/2009	ISSUE REVISION COMPLETED			
183	06/21/2009	DOCUMENT VERIFICATION			
182	06/21/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
181	06/21/2009	EXAMINER'S AMENDMENT COMMUNICATION			
180	06/01/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
179	06/21/2009	NOTICE OF ALLOWABILITY			
176	05/18/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
175	05/18/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
174	05/22/2009	DATE FORWARDED TO EXAMINER			
173	05/18/2009	SUPPLEMENTAL RESPONSE			
172	05/18/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
171	05/18/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
170	04/24/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
169	04/23/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
168	04/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
167	05/07/2009	SEQUENCE MOVED TO PUBLIC DATABASE			
166	04/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

165	04/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
164	04/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
163	04/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
162	04/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
161	04/28/2009	DATE FORWARDED TO EXAMINER			
160	04/23/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
159	04/28/2009	DISPOSAL FOR A RCE / CPA / R129			
157	04/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
156	04/24/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
155	04/24/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
154	04/24/2009	WITHDRAWAL PATENT CASE FROM ISSUE			
153	04/24/2009	WITHDRAWAL PATENT CASE FROM ISSUE			
152	04/23/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
151	04/23/2009	PETITION ENTERED			
150	04/23/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
149	04/09/2009	EMAIL NOTIFICATION			
148	04/08/2009	ISSUE NOTIFICATION MAILED			
147.5	04/08/2009	PTA 36 MONTHS			
147	04/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	48		114
147	04/28/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
146	03/27/2009	EXPORT TO FINAL DATA CAPTURE			
146	03/27/2009	EXPORT TO FINAL DATA CAPTURE			
145	03/20/2009	DISPATCH TO FDC			
145	03/20/2009	DISPATCH TO FDC			
144	03/20/2009	EMAIL NOTIFICATION			
144	03/20/2009	EMAIL NOTIFICATION			
143	03/17/2009	MAIL-PETITION DECISION - DISMISSED			
143	03/17/2009	MAIL-PETITION DECISION - DISMISSED			

142	03/16/2009	PETITION DECISION - DISMISSED			
142	03/16/2009	PETITION DECISION - DISMISSED			
141	02/19/2009	FINISHED INITIAL DATA CAPTURE			
141	02/19/2009	FINISHED INITIAL DATA CAPTURE			
140	02/03/2009	WORKFLOW - QUERY REQUEST - FINISH			
140	02/03/2009	WORKFLOW - QUERY REQUEST - FINISH			
139	01/27/2009	TC RETURN TO PUBS			
139	01/27/2009	TC RETURN TO PUBS			
138	01/31/2009	EMAIL NOTIFICATION			
138	01/31/2009	EMAIL NOTIFICATION			
137	01/31/2009	EMAIL NOTIFICATION			
137	01/31/2009	EMAIL NOTIFICATION			
136	01/27/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
136	01/27/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
135	01/27/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
135	01/27/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
134	01/21/2009	TC RETURN TO PUBS			
134	01/21/2009	TC RETURN TO PUBS			
133	01/21/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
133	01/21/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
132	01/21/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
132	01/21/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
131	01/12/2009	PUBS CASE REMAND TO TC			
131	01/12/2009	PUBS CASE REMAND TO TC			
130	01/14/2009	WORKFLOW - QUERY REQUEST - BEGIN			
130	01/14/2009	WORKFLOW - QUERY REQUEST - BEGIN			
129	01/06/2009	WORKFLOW - QUERY REQUEST - FINISH			
129	01/06/2009	WORKFLOW - QUERY REQUEST - FINISH			
128	01/02/2009	EMAIL NOTIFICATION			
128	01/02/2009	EMAIL NOTIFICATION			
127	01/02/2009	TC RETURN TO PUBS			

127	01/02/2009	TC RETURN TO PUBS			
126	01/02/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
126	01/02/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
125	12/22/2008	TC RETURN TO PUBS			
125	12/22/2008	TC RETURN TO PUBS			
124	12/22/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
124	12/22/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
123	12/01/2008	PUBS CASE REMAND TO TC			
123	12/01/2008	PUBS CASE REMAND TO TC			
122	12/05/2008	WORKFLOW - QUERY REQUEST - BEGIN			
122	12/05/2008	WORKFLOW - QUERY REQUEST - BEGIN			
121	11/24/2008	WORKFLOW - QUERY REQUEST - FINISH			
121	11/24/2008	WORKFLOW - QUERY REQUEST - FINISH			
120	11/20/2008	TC RETURN TO PUBS			
120	11/20/2008	TC RETURN TO PUBS			
119	11/12/2008	PUBS CASE REMAND TO TC			
119	11/12/2008	PUBS CASE REMAND TO TC			
118	11/13/2008	WORKFLOW - QUERY REQUEST - BEGIN			
118	11/13/2008	WORKFLOW - QUERY REQUEST - BEGIN			
117	11/11/2008	PETITION ENTERED			
117	11/11/2008	PETITION ENTERED			
116	11/11/2008	RESPONSE TO REASONS FOR ALLOWANCE			
116	11/11/2008	RESPONSE TO REASONS FOR ALLOWANCE			
115	11/12/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
115	11/12/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
114	11/11/2008	ISSUE FEE PAYMENT VERIFIED			
114	11/11/2008	ISSUE FEE PAYMENT VERIFIED			
113	11/11/2008	ISSUE FEE PAYMENT RECEIVED			
113	11/11/2008	ISSUE FEE PAYMENT RECEIVED			
112	10/30/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
112	10/30/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
111	10/20/2008	EXPORT TO INITIAL DATA CAPTURE			
111	10/20/2008	EXPORT TO INITIAL DATA CAPTURE			

110	10/17/2008	ELECTRONIC REVIEW			
109	10/17/2008	EMAIL NOTIFICATION			
108	10/17/2008	EMAIL NOTIFICATION			
107	10/17/2008	MAIL EXAMINER'S AMENDMENT			
106	10/17/2008	MAIL NOTICE OF ALLOWANCE			
106	10/17/2008	MAIL NOTICE OF ALLOWANCE			
105	10/14/2008	ISSUE REVISION COMPLETED			
105	10/14/2008	ISSUE REVISION COMPLETED			
104	10/14/2008	DOCUMENT VERIFICATION			
104	10/14/2008	DOCUMENT VERIFICATION			
103	10/14/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
103	10/14/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
102	10/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
101	10/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
100	10/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
99	10/14/2008	NOTICE OF ALLOWABILITY			
98	10/07/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
96	09/26/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	09/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	09/12/2008	EMAIL NOTIFICATION			
93	09/12/2008	MAIL ADVISORY ACTION (PTOL - 303)			
92	09/10/2008	ADVISORY ACTION (PTOL-303)			
91	08/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	87
89	08/12/2008	MISCELLANEOUS INCOMING LETTER			
88	08/21/2008	DATE FORWARDED TO EXAMINER			
87	08/12/2008	AMENDMENT AFTER FINAL REJECTION			
86	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	06/14/2008	ELECTRONIC REVIEW			
84	06/13/2008	EMAIL NOTIFICATION			
83	06/13/2008	MAIL FINAL REJECTION (PTOL - 326)			

82	06/09/2008	FINAL REJECTION			
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79	03/29/2008	DATE FORWARDED TO EXAMINER			
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77	03/04/2008	REFERENCE CAPTURE ON IDS			
76	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	03/24/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
74	03/22/2008	EMAIL NOTIFICATION			
73	02/21/2008	NEW OR ADDITIONAL DRAWING FILED			
72	03/21/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
71	03/19/2008	DATE FORWARDED TO EXAMINER			
70.1	02/21/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
70	02/21/2008	RESPONSE AFTER NON-FINAL ACTION		5	63
69	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	12/18/2007	EMAIL NOTIFICATION			
67	12/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
66	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
65	11/17/2007	ELECTRONIC REVIEW			
64	11/16/2007	EMAIL NOTIFICATION			
63	11/16/2007	MAIL NON-FINAL REJECTION			
62	11/13/2007	NON-FINAL REJECTION			
59	10/23/2007	DATE FORWARDED TO EXAMINER			
58	10/11/2007	RCE- AF PROCESSED			
57	10/23/2007	DATE FORWARDED TO EXAMINER			
56	10/11/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	10/23/2007	DISPOSAL FOR A RCE / CPA / R129			
54	10/11/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
53	10/10/2007	ELECTRONIC REVIEW			
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51	10/09/2007	MAIL ADVISORY ACTION (PTOL - 303)			
50	10/01/2007	ADVISORY ACTION (PTOL-303)			

49	09/19/2007	DATE FORWARDED TO EXAMINER			
48	09/13/2007	AMENDMENT AFTER FINAL REJECTION			
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45	07/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
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40	04/16/2007	RESPONSE AFTER NON-FINAL ACTION		95	36
39	04/16/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	12/27/2006	REFERENCE CAPTURE ON IDS			
37.7	12/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	12/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	10/11/2006	MAIL NON-FINAL REJECTION			
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29	02/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	08/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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26	07/21/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
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23	05/15/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
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21.7	08/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/11/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	02/28/2005	REFERENCE CAPTURE ON IDS			
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16	12/03/2004	APPLICATION RETURN FROM OIPE			
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12	11/22/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	11/22/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	06/25/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	08/12/2004	CLEARED BY L&R (LARS)			
6	08/02/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	08/02/2004	CASE CLASSIFIED BY OIPE			
4	07/16/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/08/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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P.O. BOX 877
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BOISE ID 83701

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DEC 14 2004

OFFICE OF PETITIONS

In re Application of :
Lowe, Senn, and Yates :
Application No. 10/877,780 : DECISION REFUSING STATUS
Filed: 25 June, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. LOWM103 :

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 18 October, 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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 June, 2004, without an executed oath or declaration.

Accordingly, on 16 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, a surcharge for their late filing, and replacement drawings in compliance with 37 CFR 1.84 and 1.121.

In response, on 18 October, 2004 (certificate of mailing date 15 October, 2004), petitioners filed the required fees, the replacement drawings, and the present petition, accompanied by a declaration naming Michael V. Lowe, Anthony J. Senn, and Eric

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

Yates as joint inventors and also signed on behalf of non-signing inventor Yates by putative assignee Tactical Design Labs, Inc., by registered patent attorney Robert L. Shaver.

Petitioners assert that a copy of the application was sent to non-signing inventor Yates, but that Yates has failed to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[2] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If there is a written refusal, petitioners must provide a copy of that written 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.

While the petition states that "Mr. Yates was sent a copy of the

[2] MPEP 409.03(d).

utility application and a Declaration and Power of Attorney" it is unclear whether the statement was made by a person with first-hand knowledge. Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or an affidavit or declaration of facts by a person with first-hand knowledge.

With regards to item (2), the declaration submitted with the present petition is defective in that if at least one inventor signs the declaration, there is no provision in the rules or laws for counsel or another individual to sign the declaration on behalf of the non-signing inventor. Rather, all the signing inventors must sign the Declaration under 37 CFR 1.63 on behalf of themselves and on behalf of the non-signing inventor(s). The Declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of 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: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Lowe, Senn, and Yates	:	
Application No. 10/877,780	:	DECISION REFUSING STATUS
Filed: 25 June, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. LOWM103	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 28 December, 2004.

The petition is again **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.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 June, 2004, without an executed oath or declaration.

Accordingly, on 16 August, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the statutory basic filing fee, additional claim fee(s), an executed oath or declaration, a surcharge for their late filing, and replacement drawings in compliance with 37 CFR 1.84 and 1.121.

In response, on 18 October, 2004 (certificate of mailing date 15 October, 2004), petitioners filed the required fees, the replacement drawings, and a petition, accompanied by a declaration naming Michael V. Lowe, Anthony J. Senn, and Eric

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

Yates as joint inventors and also signed on behalf of non-signing inventor Yates by putative assignee Tactical Design Labs, Inc., by registered patent attorney Robert L. Shaver. The petition was dismissed on 14 December, 2004.

On 28 December, 2004, the present renewed petition was filed, accompanied by, *inter alia*, a declaration signed by joint inventors Lowe and Senn on behalf of themselves and joint inventor Yates.

Petitioners again assert that a copy of the application was sent to non-signing inventor Yates, but that Yates has failed to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[2] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If

[2]MPEP 409.03(d).

there is a written refusal, petitioners must provide a copy of that written 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.

The petition is again dismissed because petitioners have still not provided evidence that a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The two letters, dated 31 August, and 15 September, 2004, respectively, sent to the non-signing inventor state only that a copy of the declaration and assignment were included. In order for a Rule 47 petition to be granted the inventor **must** be afforded an opportunity to review the application.[3] If the application papers were sent to the non-signing inventor with one of the above-referenced cover letters, petitioners should provide an affidavit or declaration of facts by a person with first-hand knowledge that the application papers (specification, including the claims, drawings, if any, and the declaration) were sent to the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
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By FAX:
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By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[3] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

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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P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Lowe, Senn, and Yates	: DECISION ACCORDING STATUS
Application No. 10/877,780	: UNDER 37 CFR 1.47(a)
Filed: 25 June, 2004	:
Atty Dckt No. LOWM103	:

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 21 April, 2005 (certificate of mailing date 18 April, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Eric Yates, has refused to sign the declaration after having been presented with a copy of the application for patent. Specifically, petitioners have shown, via the affidavits of registered practicioner Robert L. Shaver and his assistant, Amber Smith, that a copy of the application was sent by E-mail to the non-signing inventor via his attorney, Peter Shaddock. Furthermore, attorney Shaver states that he contacted attorney Shaddock, who stated on 18 April, 2005, that Yates would not 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 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 3727 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Eric Yates
BlackHawk Industries, Inc.
4850 Brookside Court
Norfolk VA 23502

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of
Lowe et al.
Application No. 10/877,780
Filed: 25 June, 2004
For: GUN HOLSTER

Dear Mr. Yates:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

Mail Date: 04/20/2010

Applicant	: Michael V. Lowe	: DECISION ON REQUEST FOR
Patent Number	: 7584875	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
John C. Reed, et al. :
Application No. 10/877,781 : DECISION ON PETITION
Filed: June 25, 2004 : TO WITHDRAW
Attorney Docket No. 1712.003US1 : 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 3, 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 Janet E. Embretson on behalf of all attorneys of record who are associated with customer No. 21186.

All attorneys/agents associated with the Customer Number 21186 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN C. REED
17044 EL CAMINO REAL
RANCHO SANTE FE, CA 92067

cc: JOSEPH REISMAN, PHD
KNOBBE MARTENS, OLSON, BEAR, LLP
550 WEST C STREET
SAN DIEGO, CA 92101

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,781	06/25/2004	John C. Reed	1712.003US1

CONFIRMATION NO. 1487

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

POWER OF ATTORNEY NOTICE

OC000000027322304

Date Mailed: 12/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/03/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

DATE 12/15/07 APPLICATION NUMBER 10/877781

DOC CODE B/B DOC DATE _____

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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901-2682

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Gus LABRASCIANO	:	
Application No. 10/877,784	:	DECISION ON PETITION
Filed: June 25, 2004	:	
Attorney Docket No. 0001396/2221USU	:	

This is a decision on the petition, filed January 29, 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**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed June 25, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 07, 2009.

The petition is not signed by a registered patent attorney or patent agent of record.

37 CFR 1.33(b) (1) & (2), 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.

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 Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901-2682

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OFFICE OF PETITIONS

In re Application of :
Gus LABRASCIANO :
Application No. 10/877,784 : DECISION ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 0001396/2221USU :

This is a decision on the renewed petition, filed December 18, 2009, which is being treated as a petition under 37 CFR 1.8(b) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed June 25, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 07, 2009.

Petitioner states that a timely reply was mailed on December 29, 2008 with a certificate of mailing on December 23, 2008. Petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on December 29, 2008.

Accordingly, it is concluded that the reply was timely received in the USPTO.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 25, 2008 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

This application is being referred to Technology Center AU 3723 for appropriate action in the normal course of business on the reply received with petition.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KATTEN MUCHIN ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of
Masahiko Namiwaka, et. al.
Application No. 10/877,786
Filed: June 25, 2004
Attorney Docket No. NECS 21.251 (100806-00278)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 13, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed October 11, 2006. A Notice of Abandonment was mailed on February 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $30 for ten (10) advance soft copies filed on February 13, 2007.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Masahiko Namiwaka et al :
Application No. 10/877,786 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. NECS 21.251 (100806-00278

This is a decision on the petition, filed July 10, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 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 2828 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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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Steve Kirchmeier	: DECISION ON REQUEST FOR
Patent Number	: 7664233	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,796	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1503** 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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
1200 – 19TH STREET, NW
SUITE 500
WASHINGTON, DC 20036-2402

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Javier Saenz	:	
Application No. 10/877,810	:	DECISION ON PETITION
Filed: June 25, 2004	:	TO WITHDRAW
Attorney Docket No. VCAT-001/04US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 16, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin J. Zimmer on behalf of all attorneys of record who are associated with customer No. 23419.

All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There 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: VENTURE CATALYST INCORPORATED
591 CAMINO DE LA REINA
SUITE 418
SAN DIEGO, CA 92108

cc: DAVID OLYNICK, ESQ.
BEYER, WEAVER & THOMAS, LLP
500 12TH STREET,
SUITE 200
OAKLAND, CA 94607

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,810	06/25/2004	Javier Saenz	VCAT-001/04US

CONFIRMATION NO. 1609

OC000000025233754

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
Washington, DC 20036-2402

Date Mailed: 08/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Pomper, et al.
Application No.: 10/877,813
Filed: June 24, 2004
Attorney Docket No.: 61297 (71699)
For: IMAGING AGENTS AND METHODS OF IMAGING A7-NICOTINIC CHOLINERGIC RECEPTOR

DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

This is a decision on the petition under 37 CFR 1.47(a), filed February 9, 2005 and supplemented on February 18, 2005.

The application was filed on June 24, 2004. On August 9, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application that required petitioners to submit an execute declaration, filing fees, and a surcharge for their late filing. Petitioners filed the basic filing fee, a petition under 37 CFR 1.47(a) and required fee, and request for 4 month extension of time and required fee on February 9, 2005.

On February 18, 2005, petitioners filed a declaration in compliance with 37 CFR 1.63 that was executed by the previously non-signing inventor, John L. Musachio.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

Regarding finances, the $200.00 Rule 47(a) petition fee will be credited to deposit account no. 04-1105. The same deposit account will be charged $432 for additional claim fees, as was required by the August 9, 2004 Notice.

This application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Sung-hyun Lim	: DECISION ON REQUEST FOR
Patent Number	: 7602967	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1507** 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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WESTERNGECO L.L.C.
10001 RICHMOND AVENUE
(P.O. BOX 2469, HOUSTON, TX 77252-2469, U.S.A.)
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of :
Storteig, et al. : DECISION ON PETITION
Application No. 10/877,823 :
Filed: June 25, 2004 :
Atty. Dkt. No.: 14.0261 :
(WEST/0030) :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 5, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned October 12, 2006 for failure to timely submit a proper reply to the non-final Office action mailed July 11, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 8, 2007.

Petitioners argue that a proper response to the final Office action was timely submitted September 20, 2006.

Review of Office records reveals that the response, received at the USPTO on September 20, 2006, while intended for instant application did not include the correct application serial number. The response was matched with the application number indicated thereon (**11**/877,823). As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be avoided in the

future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HOUSTON, TX 77252-2469

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OFFICE OF PETITIONS

In re Application of :
Eskild Storteig, et al. :
Application No. 10/877,823 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. 14.0261 (WEST/0030) :

This is a decision in response to the petition, filed November 13, 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 a final Office action mailed April 20, 2007. On November 13, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on January 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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 Jeffrey L. Wendt appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Wendt desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed solely to the address of record.

The application is being referred to Technology Center AU 3617 for consideration of the amendment filed November 13, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at

[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.

(571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY L. WENDT
1800 BERING DRIVE, SUITE 540
HOUSTON, TX 77057

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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Yanbin Huang	: DECISION ON REQUEST FOR
Patent Number	: 7658947	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent of Moddel et al.	:	
Patent No. 7,105,852	:	
Issue Date: September 12, 2006	:	Letter
Application No. 10/877,874	:	
Filing Date: June 26, 2004	:	
Attorney Docket No. Phiar-2c2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 14, 2006.

The deficiency payment of $700 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of :
Se-Jun Kim et al :
Application No. 10/877,886 : ON PETITION
Filed: June 23, 2004 :
Attorney Docket No. 51876P648 :

This is a decision on the petition, filed January 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 23, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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: 04/20/2010

Applicant	: Stephen L. Blinick	: DECISION ON REQUEST FOR
Patent Number	: 7669050	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1639** 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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JUL - 8 2005

In re Application of	:	
James W. Gick	:	
Application No. 10/877,917	:	DECISION ON PETITION
Filed: June 25, 2004	:	
For: SOUND PRODUCING PET TOY	:	

This is a decision on the petition to make special filed on February 11, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3714 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Crockett & Crockett
24012 Calle de la Plata, Suite 400
Laguna Hills, CA 92653

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VENTANA MEDICAL SYSTEMS, INC.
ATTENTION: LEGAL DEPARTMENT
1910 INNOVATION PARK DRIVE
TUCSON, AZ 85755

Mail Date: 04/21/2010

Applicant	: Christopher Bieniarz	: DECISION ON REQUEST FOR
Patent Number	: 7632652	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1239** 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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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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JUN 19 2008

In re Application of :
Donald F. **HOOPER**, et al. :
Application No. 10/877,922 : ON PETITION
Filed: June 6, 2004 :
Attorney Docket No. P18627 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of an amendment and arguments/remarks, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6051.

The application file is being referred to Technology Center AU 2123 for appropriate action by the Examiner in the normal course of business on the reply received on March 4, 2008..

David Bucci
Petitions Examiner
Office of Petitions

Cc: Edmund P. Pfleger
55 S. Commercial Street
Manchester, NH 03101

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LESLIE C. HODGES
GENERAL MOTORS CORPORATION
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Hitch et al. :
Application No. 10/877,937 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. GP-305481 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 18, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 19, 2004. A Notice of Abandonment was mailed on May 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Alexander A. Maltsev	: DECISION ON REQUEST FOR
Patent Number	: 7570696	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,943	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1440** 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of :
Roy Mankovitz : DECISION ON PETITION
Application No. 10/877,950 :
Filed: June 25, 2004 :
For: GS-22 Cont. 3 :

This is a decision on the petition to expunge under 37 CFR 1.59 filed October 23, 2008.

The petition under 37 CFR 1.59 is **DISMISSED**.

Petitioners indicate that an information disclosure statement (IDS) filed May 5, 2006 (certificate of mailing May 3, 2006), was intended for Application No. 10/887,950 but inadvertently cited Application No. 10/877,950. Petitioners request that the IDS filed May 5, 2006 and entered into U.S. Application No. 10/877,950 be expunged from that application.

In accordance with 37 CFR 1.59(b), "[a]n applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided."

Petitioners have failed to establish that expungement is appropriate in this instance.

A review of the application files at issue reveals that the IDS, was matched with Application No. 10/877,950 because it contained the incorrect application number.

All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the

serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. *See*, MPEP 502.

The IDS in question contained sufficient identifiers, including the correct application title, attorney docket number, filing date, and inventor name. Thus, in this instance, the transposed number set forth in the IDS filed May 5, 2006 is deemed a minor correctable error and expungement is deemed unnecessary.

Accordingly, the IDS filed May 5, 2006 intended for Application No. 10/887,950 but entered into the file of 10/877,950 will be transferred to application 10/887,950.

In light of the fact that this error was not caused by petitioner, the petition fee will be refunded.

This application is being referred to art unit 2621 for appropriate action by the Examiner in the normal course of business.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Leo Stanger
382 Springfield Ave.
P.O. Box 1455
Summit, NJ 07901

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
O'Toole and Robinson
Application No. 10/877,954
Filed: June 24, 2004
Attorney Docket No. STRAK-507U
For: WIRELESS CONTROL FOR CREATION OF AND COMMAND RESPONSE TO STANDARD FREIGHT SHIPMENT MESSAGES

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed February 23, 2004.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on June 24, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on August 23, 2004, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and payment of the filing fee. The notice also required a substitute specification. The instant petition was filed on February 23, 2004, along with a request for an extension of time within the fourth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor and does not sufficiently describe the circumstances of the refusal. Further to these points, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application paper should be sent to the last known address of 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. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Any renewed petition filed must provide statements and documentary evidence that complies with Section 409.03(d) of the MPEP.

Deposit account 19-4124 will be charged $200.00 for the instant petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON, TX 77056

Mail Date: 04/21/2010

Applicant	: Raimo Pellikka	: DECISION ON REQUEST FOR
Patent Number	: 7591953	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,959	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1338** 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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LOUIS J. HOFFMAN, P.C.
14614 NORTH KIERLAND BOULEVARD, SUITE 300
SCOTTSDALE AZ 85254

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of
Palmer, et al.
Application No.: 10/877,966
Filed: June 24, 2004
Attorney Docket No.: N/A
For: FIRE PREVENTION SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 17, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on June 24, 2004 without an executed declaration. On August 9, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring filing fees, an executed oath/declaration, and a surcharge for their late filing. In response, on November 17, 2004, petitioners filed, *inter alia*, a request for a two month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, and a Rule 47 petition with $130 petition fee. The petition is signed by Attorney Louis J. Hoffman. The petition contains persuasive evidence that shows non-signing inventor Timothy P. Mendoza was mailed the application papers and declaration, but Mr. Mendoza did not respond to numerous requests that he sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

This petition lacks item (3) above. While petitioner's credit card authorization authorized the Office to charge a $200 petition fee, the Office did not do so. Credit card authorizations are destroyed once used. It is noted that there is no general authorization in the application file. Therefore, the Office cannot charge the required fee. Petitioners are requested to submit the $200.00 petition fee owed. The Office apologizes for this error, but the merits of the petition cannot be addressed until the petition fee is paid in full.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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14614 NORTH KIERLAND BOULEVARD, SUITE 300
SCOTTSDALE AZ 85254

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Palmer, et al. :
Application No.: 10/877,966 :
Filed: June 24, 2004 :
Attorney Docket No.: N/A :
For: FIRE PREVENTION SYSTEM

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 8, 2004.

The petition is **granted**.

Petitioners have shown that the non-signing inventor, Timothy P. Mendoza, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the November 17, 2004 petition establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to numerous requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 3752 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Imran A. Chaudhri et al :
Application No. 10/877,968 : DECISION GRANTING PETITION
Filed: June 25, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 18602-08957(P3314) :

This is a decision on the petition, filed September 19, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 24, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the

failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 19, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 2173 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jennifer R. Bush
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

APR 03 2006

Technology Center 2100

In re Application of:
Gregory N. Christie
Application No. 10/877,968
Filed: June 25, 2004
For: UNIFIED INTEREST LAYER FOR USER INTERFACE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 13 March 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

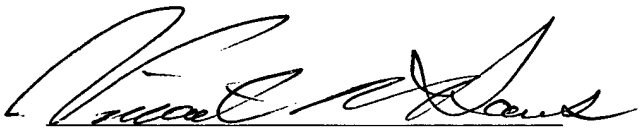
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission filed 13 March 2006 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "**detailed discussion of the references**, which discussion points out, with the particularly requirement by 37 CFR § 1.111(b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims are specifically distinguishable and patentable from the references provided pursuant to requirement (e) supra.

Applicant's petition provided no discussions of the references. The discussions do not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references.

Accordingly, the petition is **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.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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OCT 05 2006

Technology Center 2100

APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of: Chaudhri, et al.
Application No. 10/877,968
Filed: June 25, 2004
For: LAYER FOR ACCESSING USER INTERFACE ELEMENTS

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 May 16, 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 March 13, 2006 and dismissed on April 3, 2006. The status inquiry filed on September 11, 2006 is also acknowledged.

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 now 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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Meng-An Pan	: DECISION ON REQUEST FOR
Patent Number	: 7606321	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/877,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **591** 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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Meng-An Pan
Patent Number : 7606321
Issue Date : 10/20/2009
Application No: 10/877,975
Filed : 06/29/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **630** 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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DLA PIPER US LLP
ATTN: PATENT GROUP
1200 NINETEENTH STREET, NW
WASHINGTON DC 20036

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of	:	
CHENG	:	
Application No. 10/877,977	:	DECISION ON PETITION
Filed: June 29, 2004	:	TO WITHDRAW
Attorney Docket No. 5406-001-27	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 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 W. Heintz on behalf of all attorneys of record who are associated with Customer Number 24510. All attorneys/agents associated with the Customer Number 24510 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Xuefeng Cheng
250 West El Camino Real
Apt. #4202
Sunnyvale, CA 94087

cc: Transight Medical, Inc.
1900 Wyatt Drive
Suite 1
Santa Clara, CA 95054

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/877,977	06/29/2004	Xuefeng Cheng	5406-001-27

CONFIRMATION NO. 4714

OC000000021304451

24510
DLA PIPER US LLP
ATTN: PATENT GROUP
1200 NINETEENTH STREET, NW
WASHINGTON, DC 20036

Date Mailed: 11/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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IVAN S. KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JAN 15 2009

In re Application of :
Xuefeng Cheng :
Application No. 10/877,977 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No.

This is a decision on the petition, filed January 14, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3768 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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STERNE, KESSLER, GOLDSTEIN &
FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

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APR 14 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent of :
James P. McGuire, Jr. :
Application Number: 10/877992 :
Filing or 371(c) Date: 06/29/2004 :
EUV CONDENSER WITH NON-IMAGING OPTICS :

This is a decision on the Petition Under 37 C.F.R. § 1.182 and Request for Submission of Corrected Terminal Disclaimer," filed July 16, 2007.

The Petition is **granted to the extent indicated herein**.

Applicant files the present petition and requests withdrawal of the Terminal Disclaimer to Patent No. 6,670,295, filed May 11, 2005, and for entry of the Terminal Disclaimer to Patent No. 6,670,205.

As the Examiner has agreed, the petition for withdrawal of the Terminal Disclaimer to Patent No. 6,670,295, filed May 11, 2005, is granted.

The application is being referred to Technology Center Art Unit 2851 for withdrawal of the Terminal Disclaimer, filed January 8, 2007, and for processing of the Terminal Disclaimer to Patent No. 6,670,205, filed with the present petition, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MAY 19 2008

OFFICE OF PETITIONS

In re Patent of :
James P. McGuire, Jr. :
Application Number: 10/877992 : CORRECTED DECISION
Filing or 371(c) Date: 06/29/2004 : ON PETITION
EUV CONDENSER WITH NON-IMAGING :
OPTICS :

This is a decision correcting the Decision mailed April 14, 2008, on the Petition Under 37 C.F.R. § 1.182 and Request for Submission of Corrected Terminal Disclaimer," filed July 16, 2007.

The Decision mailed April 14, 2008 is hereby vacated.

The petition is **granted** to the extent indicated.

Applicant files the present petition and requests withdrawal of the Terminal Disclaimer to Patent No. 6,670,295, filed May 11, 2005, and for entry of the Terminal Disclaimer to Patent No. 6,670,205.

The USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 USC 253 do not include a mechanism for withdrawal or amendment of such a terminal disclaimer. See MPEP 1490;Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ2d 1045, 1048-49 (CAFC 2002). As such, the original terminal disclaimer unfortunately cannot be "corrected" as petitioner requests. Nevertheless, as the newly filed, corrective Terminal Disclaimer is regular in form and is accompanied by the requisite fee, it is accepted, placed in this file, and thus has been recorded against the instant patent, as petitioner requests.

The patent file is being returned to Files Repository.

The Petition is **granted to the extent indicated herein**.

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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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Miho Hosoya :
Application No. 10/877,993 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 8048-1046 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of :
Michael M. Albert, et al. :
Application No.: 10/878,040 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No.: 1857.2380000 :

This is a decision on the petition, filed February 2, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2873 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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WILLIAM S. LIGHTBODY
SUITE 100
32600 FAIRMOUNT BLVD.
PEPPER PIKE OH 44124

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Cooper :
Application No. 10/878,064 : DECISION DISMISSING PETITION
Filed: June 24, 2004 :
For: PROGRAM VIEWING APPARATUS AND :
METHOD

This is a decision on the paper entitled "Request For Updated Filing Receipt Including Cancellation of Publication" filed December 10, 2004, which is being treated as a petition under 37 CFR 1.182 for withdrawing the application from publication and for changing the filing date back to June 24, 2004.

The petition to withdraw the application from publication is DISMISSED.

The petition to change the filing date back to June 24, 2004, is GRANTED.

On June 24, 2004, applicant filed the above-identified application.

On September 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice), stating that the application had been accorded a filing date of June 24, 2004, and advising applicants that pages 29-30 of the specification appeared to have been omitted.

On September 8, 2004, OIPE also mailed a "Filing Receipt," stating that the projected publication date was to be determined and that a nonpublication request had not been received by the USPTO.

On October 25, 2004, applicant responded to the Notice by furnishing pages 29-30. In a paper entitled "Amendment," applicant stated that the application as filed included pages 29-30 and that the petition along with pages 29-30 were included. (No petition was included.)

On November 8, 2004, OIPE mailed a "Filing Receipt," stating that the filing date was October 25, 2004, the date pages 29-30 were received in the Office, and that the projected publication date was February 17, 2005, and that a nonpublication request had been not received by the USPTO.

On December 10, 2004, petitioner filed the instant petition requesting that the application not be published and requesting the filing date of June 24, 2004. The petition included a copy of a nonpublication request.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also permits the Office to publish applications filed before November 29, 2000, when applicant requests publication of such an application.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard.

Upon review of the record, 70 pages of specification (pages 1-28, 31-72), including claims and the abstract are located among the application papers. However, pages 29-30 of the specification, and the Nonpublication Request form have not been located in the official file. Furthermore, the application papers stored in the warehouse subsequent to scanning have been reviewed and pages 29-30 and the Nonpublication Request form are not in the warehouse.

An itemized postcard receipt itemizing the total number of pages of specification, including claims

and the abstract and Nonpublication Request, as set forth in Section 503 of the Manual of Patent Examining Procedure (MPEP) was not included with the petition. In a telephone conversation with the undersigned on January 21, 2005, Mark Polutta on January 19, 2005 and Robert Clarke on January 19, 2005 and January 24, 2005, applicant's representative stated that he did not have an itemized postcard receipt as set forth in Section 503 of the MPEP.

With respect to the filing date, the filing dated will be changed back to June 24, 2004, as requested in the petition and the specification will include pages 1-28 and 31-72. Because pages 29-30 could not be found in the file and petitioner failed to provide an itemized postcard receipt in compliance with MPEP section 503, those pages will not be included in the application as filed. Applicant may file an amendment including the text of pages 29-30 of the specification, without a petition, if it does not contain new matter.

With respect to the Nonpublication Request, the Office records do not include a copy a Nonpublication Request submitted on the filing date of the application. The Office has no statutory authority to accept a nonpublication request that was not filed on the filing date of the application. Because the Nonpublication request could not be found in the file and petitioner failed to provide a itemized postcard receipt in compliance with MPEP section 503, there is no evidence that the Nonpublication Request was received by the Office. With respect to Petitioner's argument that since the parent application was filed before November 29, 2000 and not subject to publication that the continuing application should not be subject to publication, this argument is not persuasive as the instant application is filed after November 29, 2000. The application is scheduled for publication on February 17, 2005.

The $400.00 petition fee required for a petition under 37 CFR 1.182 has been charged to counsel's Deposit Account.

The application file is being referred to the Office of Initial Patent Examination for further processing with a filing date of June 24, 2004 including 70 pages of specification (pages 1-28, 31-72). Thereafter, the application will be referred to Technology Center 2600 for examination in due course.

Any inquiries related to this decision should be directed to Mark Polutta at (571)-272-7709.

Karin Ferriter
Senior Legal Advisor
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2006

TO SPE OF : ART UNIT 2818 Patent No.: 6,995,423 Ser.10/878,091

Please respond to this request for a certificate of correction within 7 days.

Should Reference be included?

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: _____

Steven Loke — SPE

2818 — Art Unit

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June 29, 2006

FILE COPY

Patent No. : 7,063,368 B2
Ser. No. : 10/878106
Inventor(s) : Kayumi
Issued : June 20, 2006
Title : **ELECTRIC VEHICLE SEAT STOWING STRUCTURE**
Docket No. : NGB-15489

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 1.322.

Comparison of the patent in column 35, line 62, and column 35, line 66, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request is hereby denied.

A certificate of correction will be issued to correct the errors listed in your request. However, the issuance of the certificate will be withheld for a period of four weeks from the date of this letter to afford you an opportunity to state whether or not you desire to seek correction of the above errors under Rules 1.323.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

RANKIN, HILL, PORTER & CLARK LLP
4080 ERIE STREET
WILLOUGHBY OH 44094-7836

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD, CT 06877-0368

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Toshimitsu Ohki, et al. :
Application No. 10/878,130 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 1/1204-1C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a continuation application filed April 6, 2005. As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of the continuing application filed April 6, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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COLUMBIA UNIVERSITY
399 PARK AVENUE
NEW YORK NY 10020

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APR 0 3 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yannis Tsividis :
Application No. 10/878,155 :
Filed: June 28, 2004 :
Attorney Docket No. 019240-128 US2 :

This is a decision on the petition, filed March 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2819 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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Paper No. _____

Date : April 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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APR 0 3 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yannis Tsividis
Application No. :10/878,155
Filed :June 28, 2004

The above-identified application has been assigned Patent No. 7,026,974 and an issue date of April 11, 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 April 11, 2006:

"All reference to Patent No. 7,026,974 to Yannis Tsividis of New York for CONTINOUS-TIME DIGITAL SIGNAL GENERATION, TRANSMISSION, STORAGE AND PROCESSING appearing in the Official Gazette of April 11, 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

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LOTUS AND RATIONAL SOFTWARE
DAVID A. DAGG, ESQ.
44 CHAPIN ROAD
NEWTON MA 02459

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FEB 16 2010

In re Application of :
John C. Wray :
Application No. 10/878,166 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 260-015 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed December 26, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business on the reply received November 19, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MAR 22 2006

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: Shiga, et al.
Application No. 10/878,186
Filed: June 29, 2004
For: STORAGE SYSTEM, COMPUTER SYSTEM AND METHOD OF AUTHORIZING AN INITIATOR IN THE STORAGE SYSTEM OR THE COMPUTER 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 07 March 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 07 March 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. For each of the references deemed most closely related, it is stated that the reference fails to disclose or teach "the first and second features of the present invention". An Example of features of the "first and second features" identified in the petition (which petition recitation essentially recites the entirety of some of the independent claims) are "the memory includes an authorization table" and "identifier that identifies a computer among the plurality of computers" However, these limitations, which are purported to distinguish the independent claims from the references, are not required by **AT LEAST** independent claim 5. All other independent claims should be checked for consistency of identified language purported to define over the prior art deemed most closely related.

Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims is **specifically** distinguishable and patentable from each of the references provided in requirement (d) above, rather than to repeat essentially the entirety of each of the independent claims. The identification must be accurate and consistent with the language set forth in the (independent) claims of the instant application. It is suggested that the discussion of each reference be amended to address the concerns set forth in the immediately preceding paragraph.

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 Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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1800 DIAGONAL ROAD
Suite 370
ALEXANDRIA, VA 22314

MAILED

NOV 0 4 2006

Technology Center 2100

In re Application of: SHIGA, et al.
Application No. 10/878,186
Filed: 29 June 2004
For: storage system, computer system, and method of authorizing an initiator in the storage system or the computer system

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 22 May 2006, following-up on the 7 March 2005 petition to make the above-identified Application special under 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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PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
WILLIAMS, Lori Beth :
Application No. 10/878,209 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. **99017-200** : 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 04, 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 Thomas J. Oppold on behalf of all attorneys of record who are associated with customer No. 23452. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Lori Williams at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed May 11, 2007.

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: **MS. LORI WILLIAMS**
815 IVANHOE DRIVE
NORHTFIELD, MN 55057

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of :
Alexander GOVYANDINOV :
Application No. 10/878,262 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. **100204908-1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and publication fee of $300.00; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **ASHOK MANNAVA**
MANNAVA & KANG, P.C.
11240 WAPLES MILL ROAD
SUITE 300
FAIRFAX, VA 22030

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/878,265	06/28/2004	D. Rene Rasmussen	A2345-US-NP	5831

25453 7590 06/11/2010

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVE SOUTH
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ROCHESTER, NY 14644

EXAMINER	
AZARIAN, SEYED H	
ART UNIT	**PAPER NUMBER**
2624	

NOTIFICATION DATE	DELIVERY MODE
06/11/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usa.ogc.docket@xerox.com
OfficeAction@xerox.com

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TECHNOLOGY CENTER 2600

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ROCHESTER NY 14644

In re Application of :
Rasmussen, D. Rene *et al.* :
Serial No.: 10/878,265 :
Filed: June 28, 2004 :
For: **DYNAMIC TEST PATTERN COMPOSITION FOR IMAGE-ANALYSIS BASED AUTOMATIC MACHINE DIAGNOSTICS** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed June 28, 2004, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 7, 8 and 17 accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
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Patent No. : 7,345,380 B2
Ser. No. : 10/878,268
Inventor(s) : Ya-Tsung Feng, et. Al.
Issued : March 18, 2008
Title : BACKUP POWER SUPPLY SYSTEM WITH A NUL TRANSFER TIME
Docket No. : FENG3009/EM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314

ej

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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NOV 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,345,380	:	
Issue Date: May 18, 2008	:	
Application No. 10/878,268	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. FENG3009/EM	:	

This is a decision on the petition filed February 23, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Terri Johnson at (571) 272-2991. 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

OIPE
FEB 23 2009
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:	)	**Group Art Unit: 2836**
	)	
Ya-Tsung FENG *et al.*	)	**Examiner: H. Kaplan**
	)	
Serial Number: 10/878,268	)	***Attorney Docket*: FENG3009/BEU**
	)	
Filed: June 29, 2004	)	**Confirmation No.: 6550**

For: Backup Power Supply System With A Null Transfer Time

REQUEST TO CORRECT ASSIGNEE (37 CFR 3.81(b))

Mail Stop PETITIONS
Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Adjustment date: 11/16/2009 CKHLOK
02/24/2009 JADD01 00000032 7345380
01 FC:1464 -130.00 OP

11/16/2009 CKHLOK 00000004 7345380
01 FC:1808 130.00 OP

Sir:

The above-identified patentee requests correction of the Assignee listed on page 1 of the above-identified patent, and forwarding of the file to Certificate of Corrections Branch for issuance of a Certificate of Correction (attached) if this request is granted..

The PTOL-85B form submitted in the above application on January 24, 2008, incorrectly listed the assignee as **UIS Abler Electronics Co., Ltd.** The correct assignee, by an assignment recorded on March 29, 2007 at Reel 019084, Frame 0903, is **Ablerex Electronics Co., Ltd.**

The failure to include the correct assignee name of the PTOL-85b form was inadvertent.

A copy of the Notice of Recordation of Assignment Document and the fee of $130 is attached. The fee for the Certificate of Correction was submitted on December 10, 2008.

Respectfully submitted,
BACON & THOMAS, PLLC

02/24/2009 JADD01 00000032 7345380
130.00 OP
01 FC:1464

Date: February 23, 2009

By: BENJAMIN E. URCIA
Registration No. 33,805

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P.O. Box 247
Princeton Junction, NJ 08550

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of:	:	
John O. Bosworth, Sr.	:	
Application No. 10/878,279	:	DECISION REFUSING
Filed: June 28, 2004	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(b)
CONTAINER LID WITH DISC SHAPED	:	AND WITHDRAWAL OF
MEDIA AND METHOD OF USE	:	ABANDONMENT

This is a Decision in response to correspondence filed March 25, 2005 (Certificate of Mailing dated March 23, 2005), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. The correspondence, entitled Declaration in Support of the Right of TTG Packaging Solutions LLC to Proceed with Application in the Absence of the Inventor Signing a Declaration/Power of Attorney, is properly treated as a petition under 37 CFR 1.47(b). The delay in treating this petition is regretted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 28, 2004, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on August 23, 2004, requiring a properly signed oath or declaration and a late filing fee, oath or

declaration and surcharge; replacement drawings, and an abstract.

In response to the Notice, Applicant filed the instant petition, replacement drawings and an abstract; however, no oath or declaration in accordance with 37 CFR 1.63 was filed.

This Office subsequently mailed a Withdrawal of Previously Sent Notice on March 4, 2005, and a corrected Notice, informing Applicant that the signature of the inventor was missing from the oath or declaration. However, because no oath or declaration in accordance with 37 CFR 1.63 was filed, this Notice was erroneous.

This Office next abandoned the application because no response to the erroneously mailed notice was received.

Withdrawal of Abandonment

Applicant's petition included an authorization to charge "any fees due". Petition at p.3. As such, the petition was a timely filed reply to the August 23, 2004 Notice.

Because the March 4, 2005 Notice was sent in error, the subsequent abandonment of the application by this Office for failure to reply to the Notice was also in error, and both the Notice and subsequent abandonment of the application are *sua sponte* hereby withdrawn.

Rule 1.47(b) Petition

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) and (6) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice President, Secretary, Treasurer, or Chief Executive Officer thereof) should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of the corporation, either proof of the attorney or agent's authority in the form of a statement signed by the 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 the 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. *Steager 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).

A properly executed oath or declaration for the above-identified application is required.

As to item (6), Applicant must provide a statement to the effect that a filing date is necessary to preserve the rights of the party (applicant) or to prevent irreparable damage. See MPEP 409.03(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of:	:	
John O. Bosworth, Sr.	:	
Application No. 10/878,279	:	DECISION REFUSING
Filed: June 28, 2004	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(b)
CONTAINER LID WITH DISC SHAPED	:	
MEDIA AND METHOD OF USE	:	

This is a Decision in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(b), filed May 30, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 28, 2004, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on August 23, 2004, requiring a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge; replacement drawings, and an abstract.

In response to the Notice, Applicant filed a petition on March 25, 2005; however, no oath or declaration in accordance with 37 CFR 1.63 was filed.

This Office subsequently mailed a Withdrawal of Previously Sent Notice on March 4, 2005, and a corrected Notice, informing Applicant that the signature of the inventor was missing from the oath or declaration. However, because no oath or declaration in accordance with 37 CFR 1.63 was filed, this Notice was erroneous.

This Office next abandoned the application because no response to the erroneously mailed notice was received.

Withdrawal of Abandonment

Applicant's petition included an authorization to charge "any fees due". Petition at p.3. As such, the petition was a timely filed reply to the August 23, 2004 Notice.

Because the March 4, 2005 Notice was sent in error, the subsequent abandonment of the application by this Office for failure to reply to the Notice was also in error, and both the Notice and subsequent abandonment of the application were *sua sponte* withdrawn in a Decision mailed February 6, 2006.

Rule 1.47(b) Petition

Applicant also filed a petition under 37 CFR 1.47(b); however, as noted supra, no oath or declaration in accordance with 37 CFR 1.63 was filed.

The petition was dismissed in the Decision mailed February 6, 2006. The Decision dismissing the petition informed Applicant that 1) a properly executed oath or declaration for the above-identified application was required, and 2) Applicant must provide a statement to the effect that a filing date is necessary to preserve the rights of the party (applicant) or to prevent irreparable damage. See MPEP 409.03(g).

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration and oath/declaration; however, the oath/declaration is unexecuted. Applicant has also included a statement to the effect that a filing date is necessary to preserve the rights of the party (applicant) or to prevent irreparable damage.

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice President, Secretary, Treasurer, or Chief Executive Officer thereof) should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of the corporation, either proof of the attorney or agent's authority in the form of a statement signed by the 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 the 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. *Steager 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).

A properly executed oath or declaration for the above-identified application is required. (Emphasis supplied).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Princeton, Junction NJ 08550

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
John O. Bosworth, Sr.	:	
Application No. 10/878,279	:	DECISION GRANTING
Filing or 371(c) Date: 06/28/2004	:	PETITION UNDER
Attorney Docket Number: 705.1.001	:	37 CFR 1.47(b)

This is in response to the Request for Reconsideration of Decision Refusing Status Under 37 CFR 1.47(b), filed September 1, 2006, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has shown that the non-signing inventor, John O. Bosworth, Sr., refuse to join in the application.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MR. JOHN O. BOSWORTH, SR.
C/O A. FRED RUTTENBERG, ESQ.
BLANK ROME LLP
WOODLAND FALLS CORPORATE PARK
210 LAKE DRIVE EAST
SUITE 200
CHERRY HILL, NJ 08002

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
John O. Bosworth, Sr. :
Application No. 10/878279 : LETTER
Filing or 371(c) Date: 06/28/2004 :
Attorney Docket Number: 705.1.001 :

Dear Mr. BOSWORTH, SR.:

You are named as the 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 a joint inventor.

As the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: WATOV & KIPNES,P.C.
P.O. Box 247
Princeton, Junction NJ 08550

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: FUJII, et al.
Application No. 10/878,284
Filed: June 29, 2004
For: STORAGE CONTROL SYSTEM AND BOOT CONTROL SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 26 September 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 26 September 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies a feature for each independent claim. There is also a statement for each of the references deemed most closely related that the reference fails to teach or suggest the feature recited in the independent claims. However, the feature itself recites so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references.

Also, on page 6 of the petition, it is stated that "[t]o the extent applicable to the present Petition, Applicants submit that although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." It is not clear if the statement is applicable to the present petition or not. The language "to the extent applicable to the present Petition" gives no indication as to whether the statement actually applies in the instant application or not. Rather, this language is generic to practically any petition of this type and is not specific to the instant application. If the combination of elements referred to do in fact constitute a substantial portion of the claim, then this should be stated. Also, if the combination of elements is necessary because, e.g., there is a necessary interoperability among these elements, then this too should be stated and the reasons for the, e.g., necessary interoperability, discussed.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Fred Burns
4728 St. Lawrence Road
Fort Worth TX 76103

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
Fred Burns :
Application No. 10/878,295 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. Burns-001 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 25, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee in response to the Notice of Allowance and Fee(s) Due mailed on April 21, 2005. The Notice set a three-month statutory period to respond. The above-identified application became abandoned on July 22, 2005. A Notice of Abandonment was mailed on October 24, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(l);

> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

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[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] See MPEP 711(c)(III)(C)(2).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

With regard to requirement (3):

Petitioner stated he received correspondence from the USPTO in April of 2005; however, he did not know that it was dated material concerning his patent. Petitioner asserted that before he read the USPTO correspondence, his house burned down and the letter was lost. As of the date of the filing of the present petition, petitioner stated that his house was uninhabitable and his world was in disarray.

As previously stated, petitioner asserted that he received the Notice of Allowance and did not know that it was dated material concerning his patent application. To establish unavoidable delay, petitioner must demonstrate that he acted as a reasonable and prudent person in relation to his most important business. The showing of record is that petitioner was not diligent in the handling of the Office correspondence (*i.e.*, Notice of Allowance). Any delay resulting from petitioner's lack of knowledge of the procedures of the USPTO, rules of practice or the MPEP does not constitute unavoidable delay.[5]

Moreover, petitioner asserted that the house fire was the cause of the delay in timely responding to the Notice of Allowance. However, petitioner failed to provide sufficient documentary evidence to establish unavoidable delay based on the house fire. Specifically, petitioner did not state the date of the house fire, when his home was habitable again, or the period of time it took for him to find other reasonable living arrangements. Petitioner is required to show that due to the house fire he was unavoidably delayed in paying the issue and publication fees during the entire period from the due date for the reply until the filing of a grantable petition. Petitioner should provide the Office with any documents or records that would confirm the date of the fire and show that the fire caused damage of such a substantial nature as to prevent the petitioner from responding to the Notice of Allowance in a timely manner. For example, petitioner may wish to submit a copy of a report from the fire department or a claim filed with the insurance company.

Petitioner 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, petitioner should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner 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.

In view of the above, petitioner did not provide a sufficient showing that the delay was unavoidable within the meaning of 35 USC § 151 and 37 CFR 1.137(a). Accordingly, the petition is **dismissed.**

---

[5] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987).

In any renewed petition under 37 CFR 1.137(a), petitioner must submit a thorough explanation, including any documentary evidence, to support a showing of unavoidable delay. No additional petition fee is required for filing a renewed petition under 37 CFR 1.137(a).

Alternative Venue:

Instead of filing a renewed petition under 37 CFR 1.137(a), petitioner may file a petition 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 as set forth in 1.17(m) (**an additional fee of $750.00 for a small entity**); and, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEDLEN & CARROLL, LLP
SUITE 350
101 HOWARD STREET
SAN FRANCISCO, CA 94105

COPY MAILED

OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Roush et al.	:	
Application No. 10/878,339	:	ON PETITION
Filed: June 28, 2004	:	
Attorney Docket No. UM-09081	:	

This is a decision on the petitions under 37 CFR 1.102(c)(1), to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV and under 37 CFR 1.102(d) to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X, filed August 1, 2006.

The petition under 37 CFR 1.102(c)(1), Section IV, 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, Vassil Stefanov Georgiev, PhD, along with a copy of the applicant's U.S. Passport. Accordingly, the above-identified application has been accorded "special" status.

In view of the above petition being granted and the application being made special, the petition under 37 CFR 1.102(d), Section X, is **DISMISSED AS MOOT**.

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 1624 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
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Bacon & Thomas, PLLC
4th Floor
625 Slaters Lane
Alexandria, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Jeng-Ji Yang	: DECISION ON REQUEST FOR
Patent Number	: 7591045	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **521** 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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Bacon & Thomas, PLLC
4th Floor
625 Slaters Lane
Alexandria, VA 22314-1176

Mail Date: 05/18/2010

Applicant : Jeng-Ji Yang
Patent Number : 7591045
Issue Date : 09/22/2009
Application No: 10/878,355
Filed : 06/29/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **597** 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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STEVENS DAVIS LLP
1615 L STREET NW
SUITE 850
WASHINGTON DC 20036

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JUN 30 2008

In re Application of	:	
Futoshi Deguchi et al	:	
Application No. 10/878,393	:	DECISION GRANTING PETITION
Filed: June 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. L8612.04130	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 27, 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 27, 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 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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www.uspto.gov

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Dae-Ho Choo, et al. :
Application No. 10/878,395 : DECISION ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 6192.0219.D2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of December 10, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 11, 2009. See MPEP 1214.06.

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 Rehearing, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

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 Board of Appeals and Interferences.

This application is being referred to back to the Board of Appeals and Interferences to process the reply received April 9, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JAN 25 2006

TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: YAMAMOTO et al.
Application No. 10/878,440
Filed: June 29, 2004
For: FAULT RECOVERY METHOD IN A SYSTEM HAVING A PLURALITY OF STORAGE SYSTEMS

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 December 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 December 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies several numbered features for each independent claim. There is also a statement for each of the references deemed most closely related that the reference fails to teach or suggest the numbered features recited in the independent claims. However, the numbered features recite so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references. Also, the discussion of the references is not sufficiently detailed. The discussion of each reference is only a few sentences long and gives only a cursory description. The discussion fails to describe how the features of each reference compare to the numbered features for each independent claim.

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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1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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APR 2 8 2006

Technology Center 2100

In re Application of:
YAMAMOTO et al.
Application No. 10/878,440
Filed: June 29, 2004
For: FAULT RECOVERY METHOD IN A SYSTEM HAVING A PLURALITY OF STORAGE SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petitions, filed on 24 March 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 24 March 2006 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/11/09

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10878474 Patent No.: 7500841 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 1791
SPE **Art Unit**

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Fereydun Tabaian, Ali Hejazi, Hamed:
Sadati and Ahmad Ashrafzadeh : DECISION REFUSING STATUS
Application No. 10/878,477 : UNDER 37 CFR 1.47(a)
Filed: June 29, 2004 :
For: PROGRAMMABLE CALIBRATION
CIRCUIT FOR POWER SUPPLY CURRENT
SENSING AND DROOP LOSS COMPENSATION

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 15, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 29, 2004 without an executed oath or declaration and naming Fereydun Tabaian, Ali Hejazi, Hamed Sadati and Ahmad Ashrafzadeh as joint inventors.

Accordingly, on August 17, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on October 15, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (4), as set forth above.

A statement of the inventor's last known address is missing and is required.

Applicant states that Mr. Ashrafzadeh's has a new address, however, this address differs from the address given in the declaration. As this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration, this inconsistency should be corrected.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. Box 1450
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PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of
Fereydun Tabaian, Ali Hejazi,
Hamed Sadati and Ahmad
Ashrafzadeh
Application No. 10/878,477
Filed: June 29, 2004
For: PROGRAMMABLE CALIBRATION
CIRCUIT FOR POWER SUPPLY CURRENT
SENSING AND DROOP LOSS
COMPENSATION

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed January 14, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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OFFICE OF PETITIONS

AHMAD ASHRAFZADEH
125 CONNEMARA WAY, #125
SUNNYVALE, CA 94087

In re Application of
Fereydun Tabaian, Ali Hejazi, Hamed Sadati and Ahmad Ashrafzadeh
Application No. 10/878,477
Filed: June 29, 2004
For: PROGRAMMABLE CALIBRATION CIRCUIT FOR POWER SUPPLY CURRENT SENSING AND DROOP LOSS COMPENSATION

Dear AHMAD ASHRAFZADEH:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
Kim, et al. :
Application No. 10/878,544 : DECISION
Filed: 29 June, 2004 :
Attorney Docket No. 054358-5036 :

This is a decision on the petition filed on 25 September, 2006, and considered as a request to withdraw the holding of abandonment 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]

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.

Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

Thereafter, there will be no further reconsideration of this matter.[2]

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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] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 24 January, 2006, with reply due on or before 24 February, 1006;
- the application went abandoned after midnight 24 February, 2006;
- the Office mailed the Notice of Abandonment on 5 September, 2006;
- on 25 September, 2006 Petitioner filed the instant petition with, *inter alia*, an averment that the Office action in question (copy enclosed) had not been received by Counsel, however, while Petitioner made some of the showings/statements, as set forth in the guidance at the Commentary at MPEP §711.03(c), he apparently failed to provide the documentation of the items due on the due-date of the reply (see below).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of

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(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[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).

establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the

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[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. ***For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action***.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied the burdens herein. ***(See from above (MPEP): "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.")***

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/878,544	06/29/2004	Binn Kim	054358-5036	4512

9629 7590 01/24/2006

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER	
QI, ZHI QIANG	
ART UNIT	**PAPER NUMBER**
2871	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/878,544	KIM ET AL.	
	Examiner	Art Unit	
	Mike Qi	2871	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-20* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-11, drawn to a structure of a liquid crystal display, classified in class 349, subclass 43.

II. Claims 12-20, drawn to a method of fabricating a liquid crystal display, classified in class 349, subclass 187.

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process. For example, the product can be made by a process wherein the steps such as forming a semiconductor layer being greater in width than each of the first and second gate lines and forming a passivation layer on a resultant structure of the substrate that do not need to be perforemed.

3. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Qi whose telephone number is (571) 272-2299. The examiner can normally be reached on M-T 8:00 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (571) 272-2293. 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).

Mike Qi
Patent Examiner
January 9, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 2 4 2008

MORGAN LEWIS
& BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
Kim, et al. :
Application No. 10/878,544 : DECISION
Filed: 29 June, 2004 :
Attorney Docket No. 054358-5036 :

This is a decision on the petition filed on 18 January, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 24 January, 2006, with reply due on or before 24 February, 1006;
- the application went abandoned after midnight 24 February, 2006;
- the Office mailed the Notice of Abandonment on 5 September, 2006;
- on 25 September, 2006 Petitioner filed a petition with, *inter alia*, an averment that the Office action in question had not been received by Counsel, however, while Petitioner made some of the showings/statements required, he apparently failed to provide the documentation of the items due on the due-date of the reply (see: the guidance at the Commentary at MPEP §711.03(c)(I)(A) and (B)), and the petition was dismissed on 26 November, 2007;

- the instant petition seeks to overcome the prior deficiencies—for whatever reason Petitioner submits more than 150 pages of due-date data, when only about five of those pages address the schedule of matters due on 24 February, 2006, and those pages suggest that the Requirement for Restriction in question was not mis-filed, further the pages reflecting the docket of the instant case indicate that Requirement for Restriction was not calendared in that file and Petitioner makes as statement of search consistent with the guidance in the Commentary at MPEP §711.03(c)(I)(A) and (B).)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See: the guidance in the Commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 5 September, 2006, Notice of Abandonment is **vacated**.

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4 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

5 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

6 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

7 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant application is released to Technology Center AU 2871 further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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.

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FEB 28 2008

OFFICE OF PETITIONS

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of	:	
Masaki Banno et al	:	
Application No. 10/878,566	:	DECISION GRANTING PETITION
Filed: June 29,2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14-036	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 27, 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 17, 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment of the application.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): BANNO et al. Serial No.: 10/878,566 Filed: 06/29/2004 Title: **ANTI-ROLLOVER DEVICE FOR VEHICLE**	**Allowed: October 31, 2007** **Confirmation No.: 4992** **Issue Fee paid on January 17, 2008** Atty. Dkt.: 14-036-RCE Group Art Unit: 3661 Examiner: Yonel Beaulieu

Commissioner for Patents
Alexandria, VA 22314
Mail Stop Petitions
Attention to Ms. Karen Creasy

February 27, 2008

PETITION TO WITHDRAW FROM ISSUE PURSUANT TO 37 C.F.R. §1.313(C)(2)

Sir:

Subsequent to payment of the issue fee on January 17, 2008, and pursuant to 37 C.F.R. 1.313(c)(2), Applicants hereby petition that the above identified patent application be withdrawn from issue in view of the Request for Continued Examination filed concurrently herewith. A Supplemental Information Disclosure Statement, copies of a foreign Communication and references cited therein are being submitted as well.

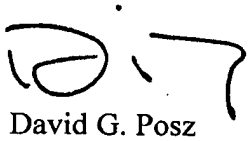
In view of the above remarks and the attached papers, Applicants respectfully request that the present PETITION be granted, that the application be withdrawn from issue, and that the Request for Continued Examination filed herewith and the Supplemental Information Disclosure Statement be entered into the record.

Authorization is hereby given to charge the requisite petition fee of $130 pursuant to 37 C.F.R. §1.17(i) and the requisite RCE fee of $810 pursuant to 37 C.F.R. §1.17(e). Although no additional fees are believed to be due, authorization is hereby given to charge any unforeseen fees to deposit account 50-1147.

```
Adjustment date: 02/28/2008  CKHLOK
02/27/2008 INTEFSW  00007346 501147   10878566
02 FC:1808          130.00 CR

02/28/2008 CKHLOK   00000003 501147   10878566
01 FC:1464          130.00 DA
```

Respectfully submitted,



David G. Posz
Reg. No. 37,701
Customer No. 23400

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
(703) 707-9110 (phone)

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
ELWAKIL et al :
Application No.: 10/878,582 : DECISION ON PETITION
Filing Date: June 28, 2004 : UNDER 37 CFR 1.78
Attorney Docket No.: AD7027USNA :

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed November 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1774 for appropriate action on the amendment submitted November 6, 2006, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/878,582	06/28/2004	1774	1274	AD7027 USNA		36	4

CONFIRMATION NO. 4811

CORRECTED FILING RECEIPT

OC000000021792212

23906
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Date Mailed: 12/29/2006

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)

Hamdy A. Elwakil, Hockessin, DE;
Ronald Roman, Hockessin, DE;
Rebecca L. Smith, Vienna, WV;
Chaucer C. Tang, Kennett Square, PA;

Power of Attorney: The patent practitioners associated with Customer Number **23906**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/483,515 06/26/2003
and is a CIP of 10/644,323 08/20/2003 PAT 7,041,163
which claims benefit of 60/483,516 06/26/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/878,582

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Decorative laminated safety glass

Preliminary Class

428

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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PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 05/04/2010

Applicant	: Jian Mao	: DECISION ON REQUEST FOR
Patent Number	: 7631411	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/878,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/878,598	06/28/2004	Michael Ehrlinspiel	26317-00001

CONFIRMATION NO.
4798

MCDONALD HOPKINS CO., LPA
2100 BANK ONE CENTER
600 SUPERIOR AVENUE, E.
CLEVELAND OH 44114-2653

Date Mailed: September 29, 2004

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c) that was filed on September 29, 2004 express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment is attached/will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Denham
Pre-Grant Publication Division
Office of Patent Publication

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CLEVELAND OH 44114-2653

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OFFICE OF PETITIONS

In re Application of :
Michael EHRILINSPIEL :
Application No. 10/878,598 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 26317-00001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned in response to the petition under 37 CFR 1.138(c) filed September 29, 2004 requesting express abandonment to avoid publication of the above-identified application. The express abandonment was recognized on September 29, 2004. Accordingly, the above-identified application became abandoned on September 29, 2004.

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). This petition lacks item (3).

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and 37 CFR 1.137(b).

Petitioner asserts that due to an unintentional miscommunication regarding the docket numbers used to identify the above-identified application and co-pending application No. 10/850,892 a petition to expressly abandon was prepared and filed for the above-identified application based upon instructions from Admedes Schuessler GmBH, which owns the rights to the above-identified application. Petitioner further asserts that the express abandonment was meant for application No. 10/850,892.

MPEP 711.01 states:

> The applicant (acquiesced in by an assignee of record), or the attorney/agent of record, if any, can sign an express abandonment. It is imperative that the attorney or agent of record exercise every precaution in ascertaining that the abandonment of the application is in accordance with the desires and best interests of the applicant prior to signing a letter of express abandonment of a patent application. Moreover, special care should be taken to ensure that the appropriate application is correctly identified in the letter of abandonment.

A thorough review of USPTO records shows that: (1) petitioner filed in the above-identified application, on September 29, 2004, both a petition for express abandonment under 37 CFR 1.138(c) and a response to a Notice to File Missing Parts of Nonprovisional Application mailed August 18, 2004; (2) the Office recognized the express abandonment in the above-identified application on September 29, 2004; (3) in application No. 10/850,892, the Office mailed, on July 23, 2004, a Notice to File Corrected Application Papers; and (4) in application No. 10/850,892, petitioner filed the a proper response to the Notice to File Corrected Application Papers on September 28, 2004.

Initially it is noted that petitioner was notified by the Office of the abandoned status of this application on September 29, 2004, no petition to revive this application was filed until March 9, 2005. That is, while petitioner may not have been aware of the abandoned status of this application until a recent file audit, they were notified of the abandoned status of this application on September 29, 2004.

Petitioner has filed no evidence, which would lead one to reasonably believe that this application was unintentionally abandoned. In this regard, petitioner has failed to submit any evidence of the circumstances surrounding the abandonment of this application. For example, no copies of correspondence from Admedes Schuessler GmBH regarding the abandonment of this application have been submitted. Additionally, no specific explanation has been given as to how and why a miscommunication regarding this application occurred.

35 U.S.C. § 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. This is because § 41(a)(7) only authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application, as this application was, is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here in view of Express Abandonment of record, there is a question whether the entire delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2100 BANK ONE CENTER
600 SUPERIOR AVENUE, E.
CLEVELAND OH 44114-2653

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OFFICE OF PETITIONS

In re Application of :
Michael EHRILINSPIEL :
Application No. 10/878,598 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 26317-00001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned in response to the petition under 37 CFR 1.138(c) filed September 29, 2004 requesting express abandonment to avoid publication of the above-identified application. The express abandonment was recognized on September 29, 2004. Accordingly, the above-identified application became abandoned on September 29, 2004.

A thorough review of USPTO records shows that: (1) petitioner filed in the above-identified application, on September 29, 2004, both a petition for express abandonment under 37 CFR 1.138(c) and a response to a Notice to File Missing Parts of Nonprovisional Application mailed August 18, 2004; and (2) the Office recognized the express abandonment in the above-identified application on September 29, 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 required fees and oath or declaration; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the application is hereby revived as: (1) the reply to the Notice to File Missing Parts of Nonprovisional Application of October 18, 2004 was previously filed; and (2) the evidence of record is to the satisfaction of the Director that the application was unintentionally abandoned.

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.

Additionally, payment of the late oath or declaration surcharge of $65 was authorized; however, it had not been charged. Accordingly, the late oath or declaration surcharge of $65 has been charged to petitioner's Deposit Account No. 13-0265.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application is being referred to the Office of Initial Patent Examination.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 21 2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of
Douglas Hovey et al
Serial No.: 10/878,623
Filed: June 29, 2004
Attorney Docket No.: 029318-1032

: PETITION TO MAKE SPECIAL

This is in response to the petition filed June 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, X. Insofar as can be determined none of the claims are directed towards the treatment for HIV, AIDS or cancer. The claims are limited to compositions only.

The petition is **DENIED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael Joe Keim,
John Raymond,
William Albert Keim
604 Bell Mawr
Barberton OH 44203-4376

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MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Keim, et al. :
Application No. 10/878,635 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2238001US1AP :

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed August 13, 2008 and supplemented on January 16, 2009, to revive the above-identified application. As this petition is not accompanied by the required $270.00 petition fee, the petition will be treated as a feeless petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED.**

The petition under 37 CFR 1.137(a) is **DISMISSED** for lack of petition fee.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 7, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Applicant filed amendments after final on February 22, 2008 and April 10, 2008,which failed to place this application in *prima facie* condition for allowance, as was explained in the July 11, 2008 Advisory Action. Accordingly, the application became abandoned on May 8, 2008.

Petitioners argue that a timely and proper response was filed in response to the February 7, 2008 final Office action and therefore, the holding of abandonment should be withdrawn.

Petitioners are reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE.

To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final, filed April 10, 2008, failed to eliminate all of the Examiner's objections and rejections, as was stated in the Advisory Opinion of July 11, 2008.

An Advisory Opinion does not restart the prosecution of the application. The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Petitioners are informed that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during telephone conversations cannot nullify the requirements set by the final Office action.

Furthermore, the Office has no record of receiving an amendment after the April 10, 2008 was filed. As the record stands, the application is not in *prima facie* condition for allowance.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

Petitioners should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in 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 $810.00 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).

For petitioners' convenience, a blank copy of Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) is enclosed.

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 pertaining to this matter may 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

enclosure: blank copy of Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Joe Keim,
John Raymond,
William Albert Keim
604 Bell Mawr
Barberton OH 44203-4376

MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Keim, et al. :
Application No. 10/878,635 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2238001US1AP :

This is a decision on the petition under the unintentional delay standard of 37 CFR 1.137(b), filed May 8, 2009.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The petition is dismissed and the merits of the petition will not be addressed because the correspondence is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Michael J. Keim. Michael J. Keim has not provided an attorney/agent registration number. Michael J. Keim has not shown that he is an authorized representative of an assignee who has right to take action. It is noted that Michael J. Keim is one of three joint inventors.

In short, Michael J. Keim has not established that she is permitted to file amendments and other papers in this application on her own.

In any reconsideration petition, petitioners are encouraged to either (a) submit Michael J. Keim's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee establishing ownership of the invention, signed by a person authorized to act on behalf of the

assignee (the person authorized to act on behalf of the assignee should be Michael J. Keim and in this manner, the signatures on instant petition, amendment, and RCE will be ratified); or (c) submit a petition, an amendment, and a RCE signed by all three joint inventors.

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 pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Michael Joe Keim,
John Raymond,
William Albert Keim
604 Bell Mawr
Barberton OH 44203-4376

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Keim, et al. :
Application No. 10/878,635 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2238001US1AP :

This is a decision on the renewed petition under the unintentional delay standard of 37 CFR 1.137(b), filed May 21, 2009.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 7, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Applicants filed amendments after final on February 22, 2008 and April 10, 2008,which failed to place this application in *prima facie* condition for allowance, as was explained in the July 11, 2008 Advisory Action. Accordingly, the application became abandoned on May 8, 2008.

Applicants have submitted a RCE and required $405.00 fee and amendment in reply to the February 7, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 7, 2008 final Office action, and the $810.00 petition fee.

All requirements under 37 CFR 1.137(b) being met, the petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1616 for consideration of the RCE filed on May 21, 2009.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JJGJR.: 01-054

Paper No: __

REVEO, INC.
85 EXECUTIVE BLVD.
ELMSFORD NY 10523

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Koh :
Application No. 10/878,636 : ON PETITION
Filed: 28 June, 2004 :
Attorney Docket No. Petacomm-001 :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 18 October, 2004.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTE: Any petition (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventors.

Thereafter there will be no further reconsideration. Failure to respond will result in abandonment of the application.

BACKGROUND

The record indicates:

- this application was filed on 28 June, 2004, without, *inter alia*, an executed oath or declaration by the named inventor;

- accordingly, on 17 August, 2004, the Office mailed a Notice of Missing Parts;

- in response to the Notice of Missing Parts, Petitioner filed the instant petition (9ver a 15 October, 2004, certificate of mailing) on 18 October, 2004, the surcharge and the instant petition (with fee), and documents in support of the allegations (including the narrative of Petitioner Bosco B. Kim (Reg. No. 41,896)) of an assignee interest in the instant application, and Petitioner's transmittal of the entire application (specification claims and drawings) to the non-signing inventor Seungug Koh (Mr. Koh) at his last known address and setting forth that address, but that he failed to respond positively to the request that he sign the declaration.

The papers submitted fail to include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor and demonstrate irreparable harm/damage.

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.**
>
> * * *
>
> (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 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
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www.uspto.gov

JJGJR.: 06-054

Paper No: __

REVEO, INC.
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ELMSFORD NY 10523

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Koh :
Application No. 10/878,636 : ON PETITION
Filed: 28 June, 2004 :
Attorney Docket No. Petacomm-001 :

This is a decision on the (renewed) petition under ¶(b) of 37 C.F.R. §1.47, filed on 23 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- this application was filed on 28 June, 2004, without, *inter alia*, an executed oath or declaration by the named inventor;

- accordingly, on 17 August, 2004, the Office mailed a Notice of Missing Parts;

- in response to the Notice of Missing Parts, Petitioner filed the original petition (over a 15 October, 2004, certificate of mailing) with fee on 18 October, 2004, the surcharge, and documents in support of the allegations (including the narrative of Petitioner Bosco B. Kim (Reg. No. 41,896)) of an assignee interest in the instant application, and Petitioner's transmittal of the entire application (specification claims and drawings) to the non-signing inventor Seungug Koh (Mr. Koh) at his last known address and setting forth that address, but

that he failed to respond positively to the request that he sign the declaration, however, the petition was dismissed on 21 January, 2005, because the papers submitted fail to include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor and demonstrate irreparable harm/damage;

- the instant petition was filed on March 23, 2005, and supplemented on 29 June, 2005, with authorization for, inter alia, a one-month extension of time required to make the petition timely to Deposit Account 50-1648, and the oath/declaration executed by an officer of the corporation (Ralph J. Crispino (Reg. No. 46,144))–thus, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), 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
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JJGJR.: 06-054

Paper No: __

SEUNG KOH
932 CARSON DRIVE
SUNNYVALE, CA 94086

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Koh :
Application No. 10/878,636 : COMMUNICATION
Filed: 28 June, 2004 :
Attorney Docket No. Petacomm-001 :

Dear Seung Koh:

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] ¶b, 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

---

[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]

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:
REVEO, INC.
85 EXECUTIVE BLVD.
ELMSFORD NY 10523

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 13, 2009

TO SPE OF : ART UNIT 1626
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/878637/7462633
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

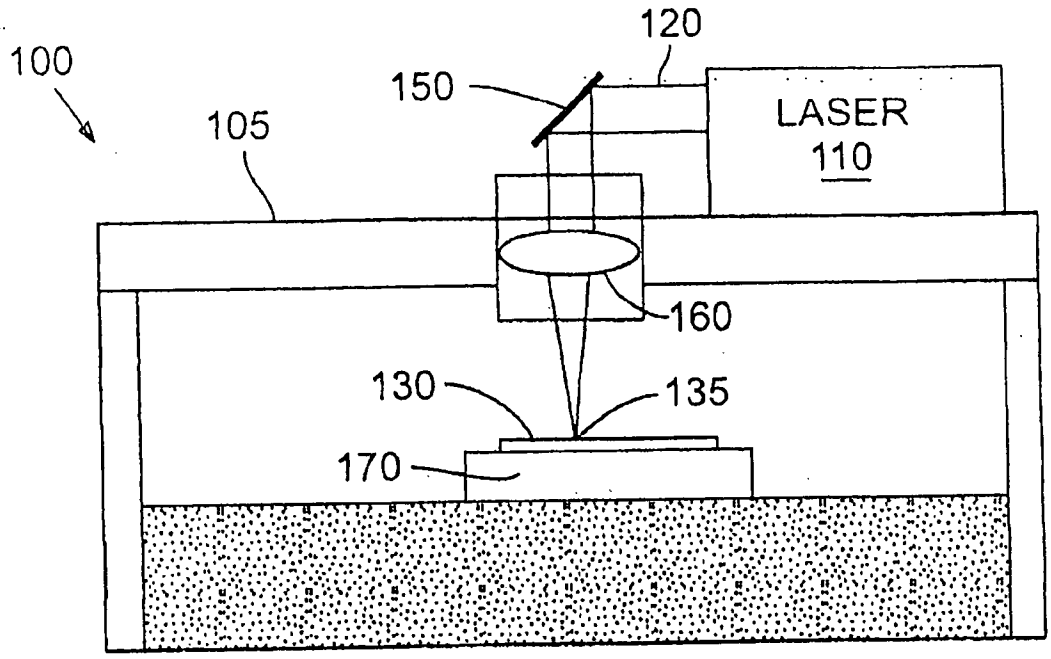
The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**


100
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LASER
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135
170

FIG. 1

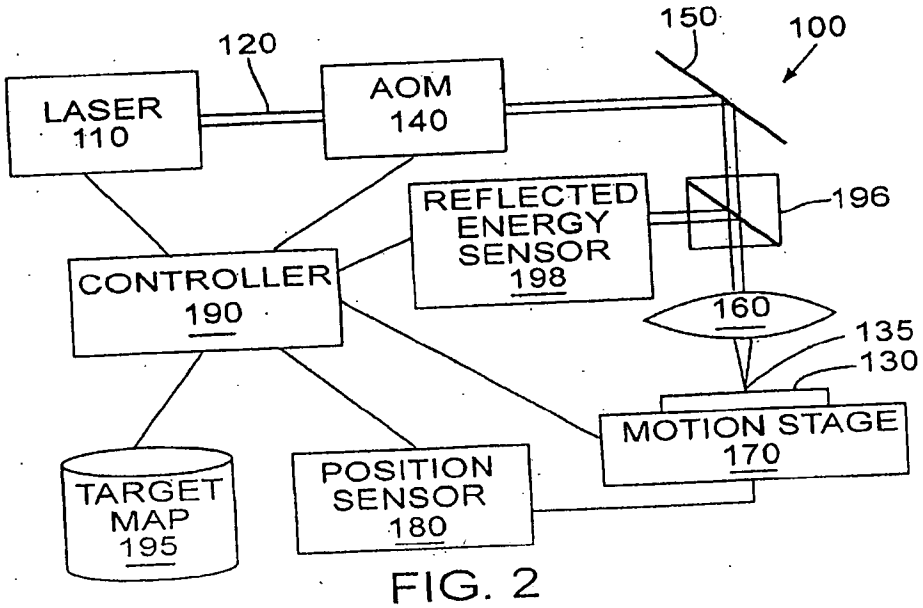
150
100
120
LASER
110
AOM
140
REFLECTED
ENERGY
SENSOR
198
196
CONTROLLER
190
160
135
130
MOTION STAGE
170
TARGET
MAP
195
POSITION
SENSOR
180

FIG. 2

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Roman MAYR :
Application No. 10/878,677 : DECISION ON PETITION
Filed: June 29, 2004 : TO WITHDRAW
Attorney Docket No. 54822008200 : 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 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed May 31, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ROMAN MAYR
LANGBEHNSTR. 22
MUNCHEN, 80689
GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD,
SUITE 1000
DALLAS, TX 75252

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/878,677	06/29/2004	Roman Mayr	543822008200

CONFIRMATION NO. 5556

OC000000024350885

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/23/2010

Applicant	: Tomojiro Sugimoto	: DECISION ON REQUEST FOR
Patent Number	: RE40886	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,686	: OF WYETH
Filed	: 06/29/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PASTEL LAW FIRM
CHRISTOPHER R. PASTEL
8 PERRY LANE
ITHACA, NY 14850-9267

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Eric Arthur Johnson :
Application No. 10/878,690 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 2004-4 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 27, 2005 and December 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on June 28, 2005. A Notice of Abandonment was mailed on November 11, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The Power of Attorney filed by facsimile transmission on December 27, 2005 and December 28, 2005, has been accepted and made of record.

The application file is being referred to the Publishing Division 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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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Gaertig, et al. :
Application No. 10/878,694 : ON PETITION
Deposited: June 28, 2004 :
Attorney Docket No. 235.0010 0120 :
For: RECOMBINANT EXPRESSION OF :
HETEROLOGOUS NUCLEIC ACIDS IN PROTOZOA

This is a decision on the petition, filed September 9, 2004, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed August 19, 2004, insofar as it alleges that drawings were omitted upon filing. In addition, petitioners request that the Office utilize the drawings submitted with the instant petition for processing purposes. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was deposited on June 28, 2004. On August 19, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawings were omitted.

In response to the Notice, petitioners filed the present petition. Petitioners request that the 37 sheets of replacement drawing figures submitted on September 9, 2004 be accorded a filing date of June 28, 2004 on the basis that 37 sheets of drawings were received in the Patent and Trademark Office (PTO) on June 28, 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 28, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 37 sheets of drawings. A review of the application file reveals that no sheets of drawings are present.

The return postcard constitutes *prima facie* evidence that 37 sheets of drawings were filed on June 28, 2004. MPEP 503.

Unfortunately, the replacement sheets of drawings submitted with the instant petition are admittedly not those filed on June 28, 2004. Petitioners state that the September 9, 2004 drawings are not identical to the drawings filed on June 28, 2004 because the September 9, 2004 drawings add identification labels. While the Office appreciates petitioners' candor, the Office cannot process these replacement drawings because they are not what was filed on June 28, 2004 and the labels may be considered new matter.

Petitioners are requested to submit a copy of the 37 sheets of drawings filed on June 28, 2004.

The application file will be retained in the Office of Petitions until the original 37 sheets of drawings are submitted. Once the omitted sheets are 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

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P.O. BOX 581415
MINNEAPOLIS MN 55458

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Gaertig, et al. :
Application No. 10/878,694 : ON PETITION
Deposited: June 28, 2004 :
Attorney Docket No. 235.0010 0120 :
For: RECOMBINANT EXPRESSION OF :
HETEROLOGOUS NUCLEIC ACIDS IN PROTOZOA

This is a decision on the reconsideration petition, filed December 20, 2004, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed August 19, 2004, insofar as it alleges that drawings were omitted upon filing. The petition will be treated under 37 CFR 1.53(e).

The reconsideration petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on June 28, 2004. On August 19, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawings were omitted.

In response to the Notice, petitioners filed the September 9, 2004 petition. Petitioners requested that the 37 sheets of replacement drawing figures submitted on September 9, 2004 be accorded a filing date of June 28, 2004 on the basis that 37 sheets of drawings were received in the Patent and Trademark Office (PTO) on June 28, 2004. In support, the petition was accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 28, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 37 sheets of drawings. A review of the application file reveals that no sheets of drawings are present.

The return postcard constitutes *prima facie* evidence that 37 sheets of drawings were filed on June 28, 2004. MPEP 503.

Unfortunately, the replacement sheets of drawings submitted with the September 9, 2004 petition

were admittedly not those filed on June 28, 2004. Therefore, the September 9, 2004 petition was dismissed on December 3, 2004. Petitioners were requested to submit a copy of the 37 sheets of drawings filed on June 28, 2004.

Petitioners filed the present reconsideration petition on December 20, 2004 and submitted a copy of the 37 sheets of drawing figures filed on June 28, 2004.

Accordingly, the petition is **GRANTED**. The Notice of Incomplete Nonprovisional Application, mailed August 19, 2004 was mailed in error and is hereby vacated. The application is entitled to a June 28, 2004 filing date with the 37 sheets of drawings as part of the original application papers.

Regarding finances, petitioners have been charged a $130.00 petition fee and a $400.00 petition fee. Both fees will be credited to petitioners' deposit account no. 13-4895.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **June 28, 2004**, using the 37 sheets of drawing figures submitted with the instant reconsideration petition on December 20, 2004. Office records will be corrected to show that 37 sheets of drawings were present on filing.

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

In re Application of :
Jacek Gaertig et al :
Application No. 10/878,694 : DECISION DISMISSING PETITION
Filed: June 28, 2004 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 235.0010 0120 :

This is a decision on the petition, filed January 31, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignees' names on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignees.

The request is **dismissed**.

Petitioner states that the assignees' names are University of Rochester and Cornell Research Foundation, Inc. Accordingly, petitioner herein requests that the patent issue to University of Rochester and Cornell Research Foundation, Inc.

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 assignment record show Cornell Research Foundation, Inc, University of Rochester and The University of Georgia Research Foundation, Inc were all recorded on June 13, 2005 which is prior to the February 5, 2008 Issue Date. Clarification is needed if petitioner wishes to only list the University of Rochester and Cornell Research Foundation as assignees.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignees set forth in the

[1] See Official Gazette of June 22, 2004

instant request, as 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Jacek Gaertig et al :
Application No. 10/878,694 : DECISION DISMISSING PETITION
Filed: June 28, 2004 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 235.0010 0120 :

This is a decision on the petition, filed June 2, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignees' names on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignees.

The request is **dismissed**.

Petitioner states that the assignees' names are University of Rochester and Cornell Research Foundation, Inc. Accordingly, petitioner herein requests that the patent issue to University of Rochester and Cornell Research Foundation, Inc.

Presently, this application lists Jacek Gaertig, Harry W. Dickerson Jr., Theodore G. Clark, and Donna Cassidy-Hanley as inventors. This petition can not be treated until the June 20, 2007 request to correct inventorship is granted which is handled by Technology Center AU 1645.

Inquiries concerning the June 20, 2007 request to correct inventorship should be directed to Technology Center AU 1645 at (571) 272-1600.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Joel S. Breving	: DECISION ON REQUEST FOR
Patent Number	: 7625285	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1524** 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

DATE : 5/22/07

Paper No.: —

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/878708 Patent No: 7199135B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☒ **Denied**	State the reasons for denial below.

Comments: The request for certificate of correction contains errors. The examiner left a phone message for Applicant's attorney requesting that he call back to discuss the errors so that he can file a new request.

Carl J. Whitehead — SPE

2813 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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June 25, 2007

Brian C. McCormack
BAKER & McKENZIE LLP
2300 Trammell Crow Center
2001 Ross Avenue
Dallas, TX 75201

Patent No: 7,199,035 B2
Application No: 10/878,708
Applicant: Harry Chuang, et al.
Issued: April 3, 2007
Title: **INTERCONNECT JUNCTION PROVIDING REDUCED CURRENT CROWDING AND METHOD AND MANUFACTURING SAME**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the request for certificate of correction reveals that there are several errors. Per the examiner "the attorney was called and there was a request to call back for discussion of the errors so that a new request could be filed".

In view of the foregoing your request in this matter are hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Edward L. Hepler	: DECISION ON REQUEST FOR
Patent Number	: 7636857	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1205** 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

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

In re Application of :
Gregory D. Knox :
Application No. 10/878,731 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 11CK-121923 (77603-00100) :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 28, 2007.

The application became abandoned for a failure to timely respond to a Notice to File Corrected Application Papers mailed August 17, 2004. Accordingly, the date of abandonment of this application is October 17, 2004. A Notice of Abandonment was mailed on May 18, 2005. On February 28, 2007, the present petition was filed.

The above-identified application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). 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 petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of a substitute specification; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the response filed February 28, 2007.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NOV 17 2004

JOHN ZEBALA, PRESIDENT
SYNTRIX BIOCHIP, INC
215 CLAY STREET NW
SUITE B-5
AUBURN W WA 98001

In re Application of	:
Barton Kamen et al	:
Serial No.: 10/878,733	: PETITION TO MAKE SPECIAL
Filed: June 28, 2004	:
Attorney Docket No.: 7.001	:

This is in response to the petition filed September 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

The provisions of M.P.E.P. 708.02, X and VIII are also satisfied.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SYNTRIX BIOSYSTEMS, INC.
215 CLAY STREET NW
SUITE B-5
AUBURN, WA 98001

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Barton A. Kamen, et al. :
Application No. 10/878,733 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 7.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 April 15, 2008. 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 July 16, 2008. A Notice of Abandonment was mailed on October 29, 2008. On January 12, 2009, 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 Jeffrey B. Oster 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.

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 $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1614 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

[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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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AUG 1 8 2006

OFFICE OF PETITIONS

In re Application of
Wolf, et al.
Application No. 10/878,744
Filed: June 28, 2004
Attorney Docket No. 138442/GETS 5323.1

DECISION ON PETITION

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 6, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed July 8, 2005. This notice set a statutory period for fee transmittal of three months. No issue fee having been received, the application became abandoned on October 9, 2005. A Notice of Abandonment was mailed on December 14, 2005.

With the instant petition, petitioner paid the petition and issue fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication 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

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
Daniel Wolf et al :
Application No. 10/878,744 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 5323.1 :

This is a decision on the petition, filed September 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. _____

Date : September 14, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 14 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Daniel Wolf et al
Application No. :10/878,744
Filed :June 28, 2004

The above-identified application has been assigned Patent No. 7,107,961 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. 7,107,961 to Daniel Wolf et al of Pennsylvania for EMD LOCOMOTIVE ENGINE GOVERNOR LOW OIL TRIP RESET appearing in the Official Gazette of September 19, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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HONEYWELL/CST
Patent Services
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Paul G. Schwendinger	: DECISION ON REQUEST FOR
Patent Number	: 7662507	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1252** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CASIMIR JONES SC
2275 DEMING WAY SUITE 310
MIDDLETON WI 53562

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,469,426 B2
Issue Date: April 14, 2009
Application No. 10/878,813
Filed: June 28, 2004
Attorney Docket No. KNAUTHE-09096

DECISION ON PETITION

This is a decision on the "REQUEST FOR CORRECTION OF PATENT FOR APPLICANT'S MISTAKE UNDER 37 CFR § 1.323", filed July 30, 2009, which is being treated as a petition under 37 CFR 1.55(c), seeking to add a claim for priority under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. DE 203 10 088.3, filed July 1, 2003, by way of a certificate of correction

The petition is **DISMISSED**.

The instant application was filed June 28, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.55(c), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed foreign application after issuance of the application into a patent. See MPEP 1481.03 and 201.14(a).

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) (currently $1,410);

(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.

Petitioner has not met requirements (2), (3), and (4) above.

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.55(c) is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Chris Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO IL 60610-4746

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of :
Shukla et al. :
Application No. 10/878,836 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 00030-001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1794 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Shukla et al.	:	
Application No. 10/878,837	:	DECISION ON PETITION
Filed: June 28, 2004	:	
Attorney Docket No. 00030-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1794 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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JOY L BRYANT, P.C.
P O BOX 620
LIGHTFOOT VA 23090-0620

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APR 17 2007

OFFICE OF PETITIONS

In re Application of
Darnell B. EXUM
Application No. 10/878,844
Filed: June 28, 2004
Attorney Docket No. WWI199-1

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 5, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 18, 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOY L BRYANT, P.C.
P O BOX 620
LIGHTFOOT VA 23090-0620

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Darnell B. EXUM :
Application No. 10/878,844 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. WWI199-1 : FROM RECORD
:

CORRECTED DECISION

The Petition Decision mailed on April 17, 2007 for the above-identified patent is hereby VACATED.

This is a CORRECTED decision replacing the decision mailed on April 17, 2007 on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2006.

The request filed December 5, 2006 is **APPROVED**.

A registered patent attorney or patent agent who has been given a power of attorney pursuant to 37 CFR 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. See 37 CFR 1.36(b)

The reason given for the request, "on follow-up to non-payment, client verbally discharged attorney on November 30, 2006," is accepted as a mandatory withdrawal pursuant to 37 CFR 10.40(b)(4).

37 CFR 10.40(a) requires that practitioner shall not withdraw from employment until the practitioner has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due notice to his or her client, allowing time for employment of another practitioner, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules. Since the reason given for withdrawal is mandatory pursuant to 37 CFR 10.40(b), it is understood that practitioner has not prejudiced the rights of the client and has meet 37 CFR 10.40(a).

The request was signed by Joy L. Bryant, sole attorney of record.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed October 18, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: DARNELL B. EXUM
3505 CALVERTON WAY
CHESAPEAKE, VA 23321

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
10/878,844	06/28/2004	Darnell B. Exum	WWI199-1

CONFIRMATION NO. 5832

OC000000023426037

21238
JOY L BRYANT, P.C.
P O BOX 620
LIGHTFOOT, VA 23090-0620

Date Mailed: 04/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2006.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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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	: Barry D. Atkins	: DECISION ON REQUEST FOR
Patent Number	: 7581248	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOEB & LOEB, LLP
321 NORTH CLARK
SUITE 2300
CHICAGO, IL 60610-4746

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APR 2 4 2008

In re Application of Shukla et al. :
Application No. 10/878,901 : Decision on Petition
Filing Date: June 28, 2004 :
Attorney Docket No. 211125-10017 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 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 final Office action mailed May 11, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 12, 2006. A Notice of Abandonment was mailed on January 16, 2007.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

(1) Petitioner has submitted the required petition fee of $770.

(2) Petitioner has submitted a reply to the outstanding final Office action in the form of an amendment and Request for Continued Examination.

(3) Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nancy Leith signed the petition. Ms. Leith was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Ms. Leith may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Ms. Leith that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is granted and the application is revived.

Technology Center Art Unit 1761 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

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SEP 2 5 2008

OFFICE OF PETITIONS

In re Application of
Tuszynski et al.
Application No. 10/878,905
Filed: June 28, 2004
Attorney Docket No. JT - 701

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 30, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to HOWARD J. GREENWALD P.C. has been revoked by the assignee of the patent application on December 5, 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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P.O. Box 1450
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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
75 STATE STREET
BOSTON, MA 02109-1808

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of :

BROWN et al. :
Application No. 10/878,910 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. SFI-011 : 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 February 27, 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 reasons provided (the assignee through an officer of the company has provided instructions to transfer of the file to Lawrence H. Meier) do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40(b) or (c). Also in the combined declaration and power of attorney filed June 28, 2004, the inventors named ten representative practitioners. (The power of attorney was not given to Customer Number 21323.) There is also no evidence that an assignment of the above-identified application to Specialty Filaments Inc. has been recorded in the Office. Additionally, no assignee has intervened in the above-identified application in compliance with 37 CFR 3.71.

In light of the above discussion, the Notice Regarding Change of Power of Attorney mailed May 2, 2006 has been vacated. Additionally, the Notice of Acceptance of Power of Attorney mailed May 2, 2006 accepting the power of attorney to those practitioners associated with Customer Number 22832 was mailed error and is being vacated. All future communications from the Office will continue to be directed to: TESTA, HURWITZ, & THIBEAULT, HIGH STREET TOWER, 125 HIGH STREET, BOSTON MA 02110 until otherwise notified by applicant.

There is an outstanding Office action mailed May 5, 2006, which requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: LAWRENCE H. MEIER
DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET, 6TH FLOOR
BURLINGTON, VT 05401

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SEP 10 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

WEISS & MOY PC
4204 North Brown Avenue
Scottsdale, AZ 85251

In re application of : **DECISION ON PETITION**
Richard Hoover : **TO MAKE SPECIAL**
Application No. 10/878,920 : **(APPLICANT'S AGE)**
Filed: June 28, 2004 :
For: CAMPER SHELL APPARATUS FOR TRUCKS

This is a decision on the petition submitted on June 28, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a driver's license for Mr. Hoover 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
Patent Technology Center 3600
(703) 308-0866

KJD/pav: 9/07/04

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of :
LI et al :
Application No.: 10/878,921 : DECISION ON PETITION
Filing Date: June 28, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 200400663-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 2006, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on April 24, 2006 (April 23, 2006 being a Sunday).

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 response to restriction requirement; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed March 23, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2891 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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NOV 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Furui, Takeshi :
Application No. 10/878,934 :
Filed: June 29, 2004 :
Attorney Docket No. 8048-1045 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAILED

AUG 3 1 2004

Director's Office
Group 3700

Victor L. Sherman
67 Woodcut Drive
Mastic Beach, NY 11951

In re application of
Victor L. Sherman

Serial Number: 10/878947
Filed: June 29, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **ASYMMETRICAL THERMODYNAMIC CYCLE AND ENGINE TO IMPLEMENT IT**

This is a decision on the petition filed on June 29, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 8/26/04

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Par Botes	: DECISION ON REQUEST FOR
Patent Number	: 7640454	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/878,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **676** 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.:20081103

DATE : November 03, 2008

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7239331

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:

/Ulka Chauhan/
Supervisory Patent Examiner, Art Unit 2628

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FILE COPY

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/878,985	06/28/2004	3753	900	126548-2	4	8	1

CONFIRMATION NO. 4310

UPDATED FILING RECEIPT

OC000000013976274

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

Date Mailed: 10/04/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael Allen Shanahan, Brandon, FL;

Power of Attorney: The patent practitioners associated with Customer Number **45364**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/065,930 12/02/2002 PAT 6,763,563

Foreign Applications

If Required, Foreign Filing License Granted: 08/17/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/878,985

Projected Publication Date: 01/13/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods for repairing water-cooled generator stator bar clips

Preliminary Class

165

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/878,988	06/28/2004	Raymond J. Caluori	16799-00014	4312

7590 11/30/2007

MIRICK O'CONNELL
ATTORNEYS AT LAW
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581-3941

EXAMINER	
NGUYEN, PHONG H	

ART UNIT	PAPER NUMBER
3724	

MAIL DATE	DELIVERY MODE
11/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MIRICK O'CONNELL
ATTORNEYS AT LAW
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581-3941

11/30/07

In re Application of:
Caluori, Raymond J.
Serial No. 10/878,988
Filed: Jun. 28, 2004
Docket: 16799-00014
Title: LIGHT BEAM ROTARY SAW CUT ALIGNMENT DEVICE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on Nov. 8, 2007. The petitioner requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a). No fee is required.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely pay a three-month extension of time fee in response to the Final Rejection mailed on May 12, 2006 which set forth a three-month period for reply. Notice of abandonment was mailed on Sep. 4, 2007.

Petitioner asserts that the Applicant timely filed an Appeal Brief, and paid the associated fee, on November 9, 2006, before the expiration of the period of time for a reply on November 12, 2006. A timely filed Appeal Brief should be treated as Appeal Brief and a Notice of Appeal in accordance with MPRP 1204. Since the Appeal Brief was timely filed, it follows that the Notice of Appeal was timely filed. Applicant subsequently filed a Notice of Appeal and paid the associated fee, and, as the Examiner noted, paid the three-month extension of time fee on December 13, 2006. Petitioner opines that, pursuant to Applicant's general authorization to charge any deficiency in payment to the deposit account (M.P.E.P. 509.01), all extension of time fees should be considered to have been timely paid. A copy of the Applicant's general authorization to charge any deficiency to the deposit account mailed on September 27, 2004 is enclosed with the petition. This general authorization to charge any deficiency in payment includes an authorization to charge extension fees. Pursuant to Applicant's general authorization to charge fees to a deposit account, the Extension of Time fees were timely paid, and the application should not have been abandoned for failure to pay the three-month extension fee.

A review of the record shows the applicant's general authorization to charge fee during the prosecution was in fact filed on Sep. 29, 2004 in the case. In view of the petitioner's points of argument found persuasive, the requested relief is granted. There is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Sep. 4, 2007 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3724 for appropriate action.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON, D.C. 20005-3934

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Pieter Vorenkamp et al. :
Application No. 10/878,994 : DECISION GRANTING
Filed: June 30, 2004 : STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 1875.4240001 :

This is in response to the petition under 37 CFR 1.47(a), filed January 10, 2005.

The petition is **granted.**

Petitioner has shown that the non-signing inventor (Venugopal Gopinathan) has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Hidetoshi Watanabe et al. :
Application No. 10/879,024 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No.: 120238 :

This is a decision on the petition filed October 27, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 25, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 26, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2861 for appropriate action on the amendment filed October 27, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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WALTER OTTESEN
PATENT ATTORNEY
P.O. BOX 4026
GAITHERSBURG, MD 20885-4026

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Brenner et al.	:	
Application No. 10/879,037	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 03067	:	

This is a decision on the petition under 37 CFR 1.182, filed July 3, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Roland BRENNER
2. Alfons ABELE
3. Hartmut GARTNER
4. Martin POXLEITNER
5. Michael WIRTH
6. Norbert SPORER
7. Matthias HAHNLE
8. Martin KRAUS

This matter is now being referred to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/879,037	06/30/2004	2837	2094	03067	9	24	5

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, MD 20885-4026

CONFIRMATION NO. 8334
CORRECTED FILING RECEIPT
OC000000020101422
OC000000020101422

Date Mailed: 08/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Roland Brenner, Wallhausen, GERMANY;
Alfons Abele, Schwabisch Gmund, GERMANY;
Hartmut Gartner, Oberkochen, GERMANY;
Martin Poxleitner, Konigsbronn, GERMANY;
Michael Wirth, Aalen, GERMANY;
Norbert Sporer, Wielenbach, GERMANY;
Matthias Hahnle, Munich, GERMANY;
Martin Kraus, Huttlingen, GERMANY;

Power of Attorney:
Walter Ottesen--25544

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 103 29 549.6 06/30/2003
GERMANY 10 2004 008 381.9 02/20/2004
If Required, Foreign Filing License Granted: 08/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/879,037

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HOLDING ARRANGEMENT HAVING AN APPARATUS FOR BALANCING A LOAD TORQUE

Preliminary Class

318

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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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 04/21/2010

Applicant	: Eli Horn	: DECISION ON REQUEST FOR
Patent Number	: 7596403	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,053	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **564** 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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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA VA 22183

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of :
Bejerano, et al. :
Application No. 10/879,063 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 129250-002046/US :

This is a decision on the petition, filed September 3, 2009, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 23, 2008 non-final Office action. No extensions of time under the provisions of 37 CFR 1.136(a) being obtained and no reply being filed, this application became abandoned on March 24, 2009.

Applicants have submitted an amendment in reply to the December 23, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 23, 2008 non-final Office action, and the $1,620.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2617 for consideration of the amendment filed on September 3, 2009.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

Mail Date: 04/21/2010

Applicant	: Yigal Bejerano	: DECISION ON REQUEST FOR
Patent Number	: 7583602	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1377** 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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SUITE 370
ALEXANDRIA VA 22314

MAILED

JAN 25 2006

TECHNOLOGY CENTER 2100

In re Application of: SHIMIZU et al.
Application No. 10/879,077
Filed: June 30, 2004
For: FILE SYSTEM UPDATING METADATA OF FILES ACCORDING TO RESULTS OF KEYWORD SEARCH

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 20 December 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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NEPEAN, ONTARIO K2G 5X3 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Neil Hutton :
Application No. 10/879,089 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 12M-33 US/DIV :

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 to the non-final Office action mailed February 17, 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 amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 3671 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Yi-Wen Tseng
4331 Stevens Battle Lane
Fairfax VA 22033

In re Application of :
Hsu : DECISION ON PETITION
Application No. 10/879,103 :
Filed: June 30, 2004 :
For: OP-093000321 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned February 22, 2006 for failure to timely reply to the non-final Office action mailed November 21, 2005. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition lacks requirement (1) set forth above. Petitioner has failed to submit a proper reply to the non-final Office action.

Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of an amendment as indicated in the outstanding Office action or a continuation application.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Thus, the Office is relying on petitioner's duty of candor and good faith in accepting the 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. See, Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Yi-Wen Tseng
4331Stevens Battle Lane
Fairfax, VA 22033

In re Application of	:	
Hsu	:	DECISION GRANTING PETITION
Application No. 10/879,103	:	UNDER 37 CFR 1.137(b)
Filed: June 30, 2004	:	
Atty. Dkt. No.: OP-093000321	:	

This decision is in response to the renewed petition under 37 CFR 1.137(b), filed August 12, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the non-final Office action mailed November 21, 2005. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) requires submission of: (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 37 CFR 1.137(d).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to the Technology Center 3700 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

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ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Taira et al :
Application No. 10/879,119 : DECISION GRANTING PETITION
Filed: June 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 120239 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 18, 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 December 21, 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 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Satoshi Shinada et al	:	
Application No. 10/879,163	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q82243	:	

This is a decision on the petition, filed March 17, 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 21, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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OFFICE OF PETITIONS

In re Application of :
Satoshi Shinada et al :
Application No. 10/879,163 : DECISION GRANTING PETITION
Filed: June 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q82243 :

This is a decision on the petition, filed September 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 14, 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 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

In re Application of Chiu et al. :
Application No. 10/879,169 : Decision on Petition
Filing Date: June 30, 2004 :
Attorney Docket No. BHT/3244-78 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2006. A Notice of Abandonment was mailed on August 17, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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OFFICE OF PETITIONS

In re Application of	:	
LEE	:	
Application No. 10/879,181	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 40296-0113	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 20, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed "Amendment And Reply Under 37 C.F.R. § 1.114."

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

10/879187 Aequah

Practitioner's Docket No. 042514

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
SUZUKI, Keisuke et al.

Application No.: (Not yet assigned)

Group No.: (Not yet assigned)

Filed: June 30, 2004

Examiner: (Not yet assigned)

For: AMORPHOUS POLYESTER CHIP AND METHOD FOR PRODUCTION THEREOF, AND METHOD FOR STORAGE OF AMORPHOUS POLYESTER CHIP

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 30, 2004

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. § 708.02, VIII

1. Petition

Applicant hereby petitions to make this new application, which has not received any examination by the Examiner, special.

2. Claims *(check and complete all applicable items (a) through (c))*

(a) ☐ All the claims in this case are directed to a single invention.
(b) ☒ If the Office determines that all the claims presented are not obviously directed to a single invention, then applicant will make an election without traverse as a prerequisite to the grant of special status.
(c) ☐ If claim(s) are found not to be examinable in this case with claim(s), then applicant hereby elects claim(s) for the prosecution of this case.

3. Search *(check all applicable items (d) through (g))*

A search has been made by
(d) ☐ the inventor
(e) ☐ attorney
(f) ☐ professional searcher
(g) ☒ foreign patent office
(h) ☐ field of search:
class(es) subclass(es)
(i) ☐ publications:
(j) ☐ foreign patents:
(k) ☐ search by corresponding foreign patent office or at the former International Patent Institute at The Hague, Netherlands.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR 16 2005

07/02/2004 HTECKLU1 00000055 10879187

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2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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OFFICE OF PETITIONS

In re Patent No. 6,965,419
Issue Date: November 15, 2005
Application No. 10/879,209
Filed: June 30, 2004
Attorney Docket No. Q81460

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. §1.183 Requesting That The Requirements of 37 C.F.R. §3.81 Be Waived, filed March 19, 2010, requesting correction on the Title Page of the subject patent to identify the omitted name of co-assignee. A completed Certificate of Correction Form (PTO/SB/44) accompanied the petition.

The petition under 37 CFR §3.81 is **DISMISSED**.

Petitioner urges that the present Petition was submitted to add the omitted co-assignee's name on the previously submitted PTOL-85B and that such error was inadvertently omitted on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the name of the co-assignee as follows:

"NEC Corporation and NEC LCD Technologies Ltd., Kanagawa, (JP)".

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.

U.S. Patent and Trademark Office assignments records disclose that an assignment *NEC Corporation and NEC LCD Technologies, Ltd.* was recorded on March 9, 2010. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. 6,965,419 :
Issue Date: November 15, 2005 : CORRECTED
Application No. 10/879,209 : DECISION ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. Q81460 :

This is a decision on the Petition Under 37 C.F.R. §1.183 Requesting That The Requirements of 37 C.F.R. §3.81 Be Waived, filed March 19, 2010, requesting correction on the Title Page of the subject patent to identify the omitted name of co-assignee. A completed Certificate of Correction Form (PTO/SB/44) accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to add the omitted co-assignee's name on the previously submitted PTOL-85B and that such error was inadvertently omitted on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to add the name of the co-assignee as follows:

> "NEC Corporation and NEC LCD Technologies Ltd., Kanagawa, (JP)".

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 requisite $100.00 fee (Fee Code 1811) and the $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.20(a) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 6,965,419.

Brian W. Brown
Petitions Examiner
Office of Petitions

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BRUNDIDGE, P.C.
1800 Diagonal Road
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Alexandria, VA 22314

MAILED

DEC 15 2005

Technology Center 2100

In re Application of:
K. FUJIMOTO et al.
Application No. 10/879,230
Filed: June 30, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petitions, filed on November 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 November 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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JAN 26 2005

OFFICE OF THE DIRECTOR
TC 3600

Melvin K. Silverman
500 West Cypress Creek Road
Suite 500
Ft. Lauderdale, FL 33309

In re application of
Franco Stefani
Application No. 10/879,240
Filed: June 29, 2004
For: LICENSE PLATE RELOCATING BRACKET

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R. § 1.102(d) filed December 16, 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 December 16, 2004, meets all of the requirements above and 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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 1/25/05

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Ephraim Starr, Division General Counsel
Honeywell International Inc.
Suite # 200
23326 Hawthorne Boulevard
Torrance, CA 90505

MAILED

NOV 30 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Peter Mavrosakis
Application No. 10/879,243
Filed: June 28, 2004
For: MULTI-THICKNESS FILM LAYER BEARING CARTRIDGE AND HOUSING

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ENVIRONMENT) OR (ENERGY)**
:

This is a decision on the petition filed on June 28, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

Applicant's invention relates to a squeeze film bearing cartridge for a turbocharger.

The petition includes a statement by applicant's attorney, Mr. Ephraim Starr. Mr. Starr states, "Turbocharged diesel engines are about 20-30% better in fuel economy....than non-turbocharger diesel engines." And, "(s)imilarly for gasoline engines, turbochargers enable engine downsizing and improve fuel economy by 10%." Mr. Starr goes on to say that "(d)esign improvements in this field, such as a bearing cartridge that improves the ease of manufacture, performance and/or reliability of the turbocharger, contribute to further emissions reduction and fuel conservation (emphasis added)."

For the above stated reasons, the petition to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section VI: Energy, is **GRANTED**.

In view of the granting of the Petition to make Special based upon energy, any determination of the Environmental Quality grounds for making the application special is now moot and thus will not be treated on those grounds.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
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RAR/rwg: 11/15/04

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EPHRAIM STARR, DIVISION GENERAL COUNSEL
HONEYWELL INTERNATIONAL INC.
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23326 HAWTHORNE BOULEVARD
TORRANCE CA 90505

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FEB 28 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter Mavrosakis :
Application No. 10/879,243 :
Filed: June 28, 2004 :
Attorney Docket No. H0007220 :

This is a decision on the petition, filed February 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 11, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3682 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).

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,373,967
Issued: May 20, 2008
Application No. 10/879,245
Filed: June 28, 2004
Dkt. No.: 047589-0254

: ON PETITION under
: 37 CFR 1.183 and ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) application for patent term adjustment under 37 C.F.R. § 1.705(d), both filed on November 17, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,373,967 with a revised patent term adjustment of 453 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 20, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 17, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 20, 2008, the date two months from the date this patent issued, May 20, 2008. Rather, on November 17, 2008, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner could have filed a timely Request for Reconsideration of Patent Term Adjustment, as Wyeth did, but chose not to do so. The fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

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promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C.
§ 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d), filed November 17, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 744 days.

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,373,967 with a revised patent term adjustment of 453 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on November 17, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 ($400.00) and the application for patent term adjustment ($200.00) is acknowledged. As the fees are a prerequisite prior to treatment on the merits, the request for refund of the required patent term adjustment application fee is **DISMISSED**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Niall O'Connell
Application No. 10/879,248
Filed: June 29, 2004
Atty Docket No. G0631.70036 US01

DECISION ON PETITION

This is a decision on the "PETITION TO ACCEPT DEPOSIT OF APPLICATION AS COMPLETE," filed September 15, 2004. Applicant requests that the above-identified application be accorded a filing date of June 29, 2004, with pages 36-41 of the specification as part of the original application disclosure. This petition is properly treated under § 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on June 29, 2004. However, on August 19, 2004, the Initial Patent Examination Division mailed applicant a "Notice to File Corrected Application Papers." Applicant was notified that the application papers had been accorded a filing date; however, pages 36-41 of the specification appeared to have been omitted from the application. In addition, applicant was required to submit replacement drawings in compliance with § 1.84.

In response, applicant timely filed the instant petition. Petitioner states that the complete application, including pages 36-41, was deposited in the US Patent and Trademark Office with the non-provisional application papers, by Express Mail, on June 29, 2004. In support thereof, petitioner submits *inter alia* a copy of their return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of

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[1] §1.53(e) Failure to meet filing date requirements.
... (2) Any request for review of ... a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on June 29, 2004 and the papers submitted therewith assigned application No. 10/879248; 2) it specifically identifies the items being filed, including "(52 pgs) Specification, (1 pgs) Abstract and (12 pgs) Claims" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 52 pages of specification, were filed on June 29, 2004.

The application papers already considered received in the Office on June 29, 2004, were reviewed along with the missing pages of specification submitted on petition. These papers together constitute the items described on the postcard receipt as "(52 pgs) Specification." Petitioner has shown that pp. 36-41 of the specification were among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

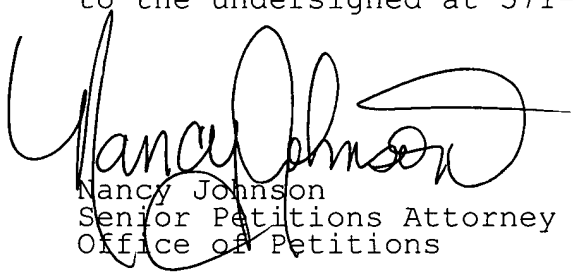
Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 23-2825, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of June 29, 2004, using the application papers received in the Office on that date and the missing pages of specification, pp. 36-41, re-supplied on petition filed September 15, 2004; and
- processing of the responses filed September 15, 2004, 15 sheets of replacement drawings, to the "Notice to File Corrected Application Papers."

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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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MAILED

JUN 27 2005

Director's Office
Group 3700

In re Application of
Peter Mavrosakis
Serial No. 10/879,253
Filed: June 28, 2004

DECISION ON PETITION TO MAKE SPECIAL

For: RETENTION OF BALL BEARING CARTRIDGE FOR TURBOMACHINERY

Applicant's petition, filed June 28, 2004, seeks to have this application made special based upon the Environmental Quality and the Energy Program.

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(V) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 6/23/05

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of
Gilad et al.
Application No. 10/879258
Filing Date: 06/30/2004
Attorney Docket Number:
P-6493-US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 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 May 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114, filed July 19, 2007; (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) 272-3232.

This application is being referred to Technology Center AU 3739 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.

Derek L. Woods
Attorney
Office of Petitions

OK TO ENTER: /JT/

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER: 200313419-1

IN RE APPLICATION OF: U.S. Patent No. 7,437,651

USPTO CONFIRMATION CODE: 6836

APPLICATION NO.: 10/879,262

FILED: Jun. 29, 2004

EXAMINER: Joseph D Torres

GROUP ART UNIT: 2112

FOR: SYSTEM AND METHOD FOR CONTROLLING APPLICATION OF AN ERROR CORRECTION CODE (ECC) ALGORITHM IN A MEMORY SUBSYSTEM

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

Sir:

The following is a request for a certificate of correction in Serial Number 10/879,262, now Patent Number 7,437,651.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

☒ All errors were the fault of the USPTO, no fee required. In the event that a further fee is required, please charge the amount to Deposit Account No. 082025.

☐ All errors were the fault of the applicant and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

☐ The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

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OK TO ENTER: /JT/

In column 8, line 16, in Claim 4, delete "of claim The method 1" and insert - - The method of claim 1 - -, therefor.
(Amendment to claims filed on Jul. 18, 2007, page 2, in Claim 12, line 1)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

1/21/09
DATE

Name: Steven L. Webb
Registration No.: 44,395

Attorney/Agent of Record

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

OK TO ENTER: /JT/

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PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,437,651

APPLICATION NO. : 10/879,262

ISSUE DATE : Oct. 14, 2008

INVENTOR(S) : John A. Nerl, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 8, line 16, in Claim 4, delete "of claim The method 1" and insert - - The method of claim 1 - -, therefor.

OK TO ENTER: /JT/

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MAILING ADDRESS OF SENDER (Please do not use customer number below):

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

This collection of information is required by 37 CFR 1.322, and 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patent, 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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FEDERAL WAY WA 98063

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Elmer CHRISTENSEN et al :
Application No. 10/879,268 : DECISION ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 25500 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 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 November 15, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 15, 2007. Accordingly, the date of abandonment of this application is November 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 payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051, or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

for David A. Bucci
Petitions Examiner
Office of Petitions

cc: Daniel J Beitley
Weyerhaeuser Company
Federal Way, WA 98006

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WASHINGTON, DC 20005

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SEP 21 2007

TECHNOLOGY CENTER 3600

In re Patent No. MACCONNELL, RICHARD JENNINGS :
Appl No.: 10/879,285 : **DECISION ON PETITION**
Filed: June 30, 2004 : **FILED UNDER** *37 CFR 1.181*
For: Ladder Sculptures and Methods of Use :

This is a decision on the petition filed January 12, 2007 requesting that the after final amendment filed on December 12, 2006 be entered. There is no fee required for this petition. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED as Moot**.

After reviewing the above file, the file history shows that a final rejection was mailed on November 1, 2006. The final rejection finally rejected claims 1-19 under 35 U.S.C. 103(a) as being unpatentable over Benz (US D218,370) in view of Rau (US D230,916). After receiving the final rejection, the applicant filed an after final amendment on December 12, 2006. In response to the after final amendment of December 12, 2006, the examiner then issued an advisory action on January 8, 2007. In response to the advisory action, the applicant then filed the present petition on January 12, 2007 requesting that the amendment filed on December 12, 2006 be entered. After this petition was filed, the examiner then sent out a second advisory action on March 26, 2007 stating "it has come to the examiner's attention that the examiner inadvertently included the incorrect claim numbers in the explanation of why the after final amendment of December 12th, 2006 was not entered." Then, after the second advisory action was mailed to applicant, the applicant filed an RCE on March 30, 2007. Finally, in response to the RCE filed on March 30, 2007, the examiner issued a non-final office action on June 27, 2007.

In regard to the non-entry of the after-final amendment, it appears the examiner was in error in issuing an advisory action stating that the after final amendment would not be entered. The applicant merely incorporated the limitations of claims 3 and 5 into independent claim 1, canceled claims 3-7, 9-11, 14-16 and 18-19, and amended claim 17 to depend from claim 1 instead of claim 3, which was canceled. The amendment also corrected a typographical error that changed "either of both" to "either or both". However, the limitations of claims 3 and 5 in combination with claim 1 were already considered and were even rejected in view of the '370 and '916 patents, i.e. claims 1-19 were rejected by '370 in view of '916 as pointed out above. Therefore, it is believed that the claims as amended were already considered by the examiner and did not appear to raise new issues that would require further consideration and/or search since the examiner rejected all of the claims in view of the same two references. However, even though the examiner appears to have been in error by not entering the amendment of December 12, 2006, the issue now seems moot due to the fact that the applicant filed an RCE, has subsequently had the amendment of December 12, 2006 entered, and received a non-final office action addressing said amendment of December 12, 2006. Thus, the petition filed on January 12, 2007 is hereby **DISMISSED as Moot.**

In conclusion, the application will remain in its current status awaiting a response from applicant. Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

SUMMARY: The petition is **DISMISSED.**

Wynn Coggins
Director
Patent Technology Center 3600
571-272-5350

BG/SM: 8/30/07
SM

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AND POPEO, P.C.
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BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of :
Feyzi Celik :
Application No. 10/879,331 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 18358-007

This is a decision on the petition, filed October 25, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 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 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Ian David Kemp et al. :
Application No. 10/879,337 : DECISION ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 9601 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed October 22, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Patent No. 7,469,219	:	
NATHAN D. GOLDBERG	:	DECISION ON
Issue Date: December 23, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/879,368	:	OF
Filed: June 28, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10022/487	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)", filed February 19, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred seventy four (474) days to six hundred eighty-nine (689) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 23, 2008, the above-identified application matured into US Patent No. 7,469,219 with a patent term adjustment of 474 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur

on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 215 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 567 days do not overlap as these periods do not occur on the same day.

The 215 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on June 28, 2004, and a request for continued examination (RCE) having been filed in this application on January 29, 2008. The filing of a 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. 37 CFR 1.703(b)(1).

Patentees assert that in addition to this 215 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), totalling 567 days. This 567 day period is the sum of:

- a period of delay of 487 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and,
- a period of delay of 80 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. The period of reduction of 93 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (215 days) and the period of Examination Delay (567 days) to the extent that these

periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the periods of 14 month examination delay and 4 month examination delay in issuing the patent. Accordingly, Patentees submit that the total period of adjustment for Office delay is 782 days, which is the sum of the period of Three Year Delay (215 days) and the period of Examination Delay (567 days), reduced by the period of overlap (0 days).

As such, patentees assert entitlement to a patent term adjustment of 689 days (215 + 567 reduced by 0 overlap - 93 (applicant delay)).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 567 days is correct. At issue is whether patentees should accrue 215 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 567 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 215 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during

which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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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).

Treating the relevant period as starting on June 28, 2007, the date that is three 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, June 28, 2004 to December 23, 2008. 567 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 215 days for Office delay in issuing the patent overlap with the 567 days of Office delay. The Office took 14 months and 487 days to issue a first Office action. Additionally, the Office took 4 months and 80 days to issue the patent after the date on which the issue fee was paid. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the 567 days of Office delay and the 93 days of applicant delay and the time allowed within the timeframes for processing and examination, as of the filing of the RCE, the application was pending three years and 215 days. The issuance of the patent was delayed by 567 days, not 567 + 215 days. The Office did not delay 567 days and then an additional 215 days. Entry of both periods is not warranted. 567 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 215 days over three years to the filing of the RCE. Thus, 567 days of patent term adjustment (not 567 and 215 days) was properly entered because the period of delay of 215 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 567 days attributable to grounds specified in 37 CFR 1.702(a)(1) and (a)(4). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: Kenneth A. Halligan	: DECISION ON REQUEST FOR
Patent Number	: 7640408	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,383	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1152** 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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Docket No.: M4065.1288/P1288
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Salman Akram et al.

Application No.: 10/879,398

Filed: June 29, 2004

For: PACKAGED MICROELECTRONIC IMAGERS AND METHODS OF PACKAGING MICROELECTRONIC IMAGERS

Allowed: July 2, 2007

Confirmation No.: 7462

Art Unit: 2814

Examiner: J. C. Ingham

REQUEST FOR ACKNOWLEDGEMENT OF REFERENCES CITED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants' undersigned representatives respectfully request that the Examiner acknowledge the references cited on Form PTO-1449 accompanying an Information Disclosure Statement dated December 21, 2005. A copy of the original submission along with a copy of the postal delivery receipt is being submitted herewith for your convenience.

Dated: August 8, 2007

Respectfully submitted,

By_____

Thomas J. D'Amico
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Express Mail No. EV758928433US

Attorney Docket No. 108298748US
Disclosure No. 03-0862.00/US

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Akram et al.

Application No.: 10/879,398 | Confirmation No.: 7462

Filed: June 29, 2004 | Art Unit: 2814

For: PACKAGED MICROELECTRONIC IMAGERS AND METHODS OF PACKAGING MICROELECTRONIC IMAGERS | Examiner: J. C. Ingham

INFORMATION DISCLOSURE STATEMENT (IDS)

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

This Information Disclosure Statement is filed before the mailing date of a first Office Action on the merits as far as is known to the undersigned (37 CFR 1.97(b)(3)).

Applicants have not submitted copies of each cited U.S. patent and U.S. patent application as required by 37 CFR 1.98(a)(2)(i), amended October 2004, as the U.S. Patent and Trademark Office has waived this requirement for all U.S. patent applications.

Applicants submit herewith copies of foreign and non-patents in accordance with 37 CFR 1.98(a)(2).

In accordance with 37 CFR 1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR 1.56(a) exists. In accordance with 37 CFR 1.97(h), the filing of this Information Disclosure statement shall not be construed to be an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

It is submitted that the Information Disclosure Statement is in compliance with 37 CFR 1.98 and the Examiner is respectfully requested to consider the listed references.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0665, under Order No. 108298748US.

Dated: 12/21/05

Respectfully submitted,

By _____

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OIPE IAP97 AUG 08 2007 PATENT & TRADEMARK OFFICE

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Attorney Docket No. 108298748US
Disclosure No. 03-0862.00/US

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Sheet	1	of	5

Complete if Known	
Application Number	10/879,398-Conf. #7462
Filing Date	June 29, 2004
First Named Inventor	Salman Akram
Art Unit	2814
Examiner Name	J. C. Ingham
Attorney Docket Number	108298748US

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
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		US-10/845,304		Jiang et al.	
		US-10/857,948		Boettiger et al.	
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Sheet	2	of	5

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Application Number	10/879,398-Conf. #7462
Filing Date	June 29, 2004
First Named Inventor	Salman Akram
Art Unit	2814
Examiner Name	J. C. Ingham
Attorney Docket Number	108298748US

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Application Number	10/879,398-Conf. #7462
Filing Date	June 29, 2004
First Named Inventor	Salman Akram
Art Unit	2814
Examiner Name	J. C. Ingham
Attorney Docket Number	108298748US

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Examiner Initials*	Cite No.[1]	Foreign Patent Document: Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application Number	10/879,398-Conf. #7462
				Filing Date	June 29, 2004
				First Named Inventor	Salman Akram
(Use as many sheets as necessary)				Art Unit	2814
				Examiner Name	J. C. Ingham
Sheet	4	of	5	Attorney Docket Number	108298748US

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NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
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Examiner Signature		Date Considered	

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Attorney Docket No. 108298748US
Disclosure No. 03-0862.00/US

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Sheet 5 of 5

Complete if Known	
Application Number	10/879,398-Conf. #7462
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First Named Inventor	Salman Akram
Art Unit	2814
Examiner Name	J. C. Ingham
Attorney Docket Number	108298748US

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		WALKER, M.J., "Comparison of Bosch and cryogenic processes for patterning high aspect ratio features in silicon," 11 pages, Proc. SPIE Vol. 4407, p. 89-99, MEMS Design, Fabrication, Characterization, and Packaging, Uwe F. Behringer; Deepak G. Uttamchandani; Eds., April 2001.	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1]Applicant's unique citation designation number (optional). [2]Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	

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SUITE 600
DALLAS, TX 75201-2980

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SEP 0 7 2004

OFFICE OF PETITIONS

In re Application of :
David E. Stroud, et al. :
Application No. 10/879,421 : NOTICE
Filed: June 29, 2004 :
Attorney Docket No. 075461.0109

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file will be referred to Technology Center 3765 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

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MAY 12 2005

Technology Center 2100

In re Application of: MATSUNAMI, et al.
Application No. 10/879,424
Filed: June 28, 2004
For: DATA MIGRATION IN 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 March 2, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The Petition filed March 2, 2005 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that whereas all independent claims recite elements "initiator" and "target" in singular form, the discussion presented in the petition consistently refer to them in plural form. Similar discrepancies could be found in reference to elements "host" and "logical unit" as provided in the discussions of the references US 6,772,306 B2 and US-PGPUB 20040172512 A1 respectively.

Accordingly, the Petition to Make Special is **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

5/2/05

SDL: 04/28/05

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San Francisco, California 94111-3834

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TECHNOLOGY CENTER 2100

In re Application of:
Naoto MATSUNAMI et al
Application No. 10/879,424
Filed: June 28, 2004
For: DATA MIGRATION IN STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on July 13, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of July 13, 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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AUG 0 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,887,329 :
Issue Date: May 3, 2005 :
Application No. 10/879,442 : NOTICE
Filed: June 29, 2004 :
Attorney Docket No. RANPP0326USB :

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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NEW YORK, NY 10165

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OFFICE OF PETITIONS

In re Application of :
George Kubala :
Application No. 10/879,454 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 1405-003 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 25, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 26, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (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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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of
Dwyer etal.
Application No. 10/879,460
Filed: Junr 29, 20004
For: CONDITIONAL STACK FOR A SINGLE INSTRUCTION, MULTIPLE DATA EXECUTION ENGINE

ON PETITION

This is a decision on the petition filed May 13, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **dismissed**. Any request for reconsideration must be filed within TWO MONTHS of this decision. See 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) or (b)are not available.

This application apparently became abandoned for failure to reply within the meaning of 37 CFR 1.111 and 35 U.S.C. § 133 to the non final Office action of September 15, 2006, which set a shortened statutory period for reply of three months. As a reply was not filed, and no extensions of time were obtained, this application became abandoned at midnight on December 15, 2006. A Notice of Abandonment has not been mailed.

Petitioner requests that the holding of abandonment be withdrawn based on the assertion that the Office action was not received, and the corroborating copies of the docket report and a US Patent Case Detail report indicating that no Office action had been received as of May 16, 2007.

While the entire record has been carefully considered, the record fails to provide an adequate basis for withdrawing the holding of abandonment. The applicable statute reads as follows:

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 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.

The record shows that the Office action of September 15, 2006 was mailed to applicant at the correspondence address of record specified by applicant. There is no apparent irregularity with respect to the mailing of the Office action and in the absence of any irregularity, there is a strong presumption that the Office action was delivered by the USPS to the specified address. That presumption may be rebutted by an appropriate showing of nonreceipt.

The showing required to establish nonreceipt of an Office communication must include:

> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and
> (2) attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, and
> (3) a copy of the docket record(s) 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.

The showing currently lacks item (2) above. That is, there is no attestation that a search was made of the file jacket and docket records indicates that the Office communication was not received.

There is an additional issue that requires clarification. It is noted that the correspondence address given on the petition differs from that to which the Office action of September 15, 2006 was mailed. Inspection of relevant USPTO records reveals that a change of address for the customer number was processed November 2, 2006. When did the firm relocate?

Telephone inquiries related to this decision only should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Michael K. DWYER et al. :
Application No. 10/879,460 :
Filed: June 29, 2004 :
Attorney Docket No. P19307 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181, filed August 21, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed September 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 16, 2006.

Petitioner asserts the holding of abandonment be withdrawn as petitioner never received either the non-final Office action mailed September 15, 2006.

To support this assertion petitioner has submitted: (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the non-final Office action mailed September 15, 2006.

Application No. 10/879,460

In view of the above, the holding of abandonment is hereby withdrawn, the application restored to pending status, and the non-final Office action of September 15, 2006 will be remailed and the time period for response thereto restarted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2183 for appropriate action commensurate in scope with the decision herein.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/879468	:	DECISION
Filing or 371(c) Date: 06/30/2004	:	ON PETITION
Attorney Docket Number 146394-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 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 Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (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) 272-3232.

This application is being referred to Technology Center AU 1794 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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Technology Center 2100

In re Application of HIRAKAWA et al
Application No.: 10/879,472
Filing Date: June 30, 2004
For: DATA PROCESSING SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed November 3, 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 3, 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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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David J. WANAT :
Application No. 10/879,478 :
Filed: June 29, 2004 :
Attorney Docket No. 2045/U :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3742 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Glukhovsky et al.	:	
Application No. 10/879483	:	DECISION ON PETITIONS
Filed: 06/30/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P-2389-US2	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed on 19 September, 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 and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet (ADS).

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. 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 3768 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
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/879,483	06/30/2004	3768	2220	P-2389-US2	30	7

CONFIRMATION NO. 3875

CORRECTED FILING RECEIPT

49443
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

Date Mailed: 11/26/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Arkady Glukhovsky, Santa Clarita, CA;
Gavriel Meron, Petach Tikva, ISRAEL;
Gavriel J. Iddan, Haifa, ISRAEL;

Power of Attorney:
Caleb Pollack--37912
Mark Cohen--42425
Edward Timmer--46248
Guy Yonay--52388
Guy Levi--55376

Domestic Priority data as claimed by applicant

This application is a CIP of 10/009,837 08/22/2002 PAT 6,836,377
and is a CIP of 10/478,252 11/20/2003
and is a CIP of 10/879,276 06/30/2004 PAT 6,934,093
which is a CON of 10/009,837 08/22/2002 PAT 6,836,377
which is a 371 of PCT/IL00/00349 06/15/2000
and said 10/478,252 11/20/2003
is a 371 of PCT/IL02/00391

Foreign Applications
ISRAEL 130486 06/15/1999
ISRAEL 143258 05/20/2001

If Required, Foreign Filing License Granted: 09/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/879,483**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

In-vivo imaging device, optical system and method

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER FLOOR EIGHTH
SAN FRANCISCO, CA 94111

COPY MAILED

MAY 01 2008

OFFICE OF PETITIONS

In re Application of :
MELAMED, et al. :
Application No. 10/879,484 : DECISION ON PETITION
Filed: June 28,2004 : TO WITHDRAW
Attorney Docket No. **2003P00791US(S20.026)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **TOWNSEND AND TOWNSEND AND CREW, LLP** has been revoked by the assignee of the patent application on October 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SAP AG C/O BUCKLEY MASCHOFF & TRALWALKER, LLC**
50 LOCUST AVENUE
NEW CANAAN, CT 06840

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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APR 09 2008

OFFICE OF PETITIONS

In re Application of :

John K. Cherrington et al. :
Application No. 10/879,492 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. 81760 5957 : 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 24, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, ***client personally responded to the 5/3/07 office action***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **John Cherrington**
2285 Micro Place, Suite F
Escondido, CA 92029

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MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ERIC ROBINSON
ROBINSON INTELLECTUAL PROPERTY LAW OFFICES, P.C.
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA. 20165

In re Application of: WARSHAVSKY ET Al.
Application No. 10/879,504
Filed: JUNE 30, 2004
For: METHOD AND SYSTEM FOR TRANSFERRING A FILE BETWEEN DATA PROCESSING DEVICES USING A COMMUNICATION OR INSTANT MESSAGING PROGRAM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed July 27, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c)Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which

special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, petitioner will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed July 27, 2004 fails to adequately meet requirements (b) and (e) of the criteria set forth above. In reference to requirement (b), the petitioner fails to state that "if the Office determines that all the claims presented are not obviously directed to a single invention, the applicant will make an election without traverse as a prerequisite to the grant of special status". With respect to requirement (e), petitioner must provide a detailed discussion of the reference documents. The petitioner indicates how the claimed subject matter is patentable over Keech; however, in the discussion of the other references, the applicant merely indicates that the reference (for example, Laughlin) does not disclose a method or system of the present invention, as described above. Furthermore, the feature of a method or system **that is adapted to transfer a file..."** is not set forth in independent claims 1 or 27. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references.** Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

5/12/05

JC

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AUG 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Eric Robinson
PMB 955
21010 Southbank Street
Potomac Falls, VA 20165

In re Application of: Warshavsky, et al.
Application No. 10/879,504
Filed: 30 June 2004

For: METHOD AND SYSTEM FOR TRANSFERRING A FILE BETWEEN DATA PROCESSING DEVICES USINC A COMMUNICATION OR INSTANT MESSAGING PROGRAM

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 27 June 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, that Applicant originally filed on 27 July 2004, which the Patent Office dismissed in the decision mailed 16 May 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 04, 2008

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/879513 Patent No.: 7102381 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: All corrections are approved and should be applied. Thanks!

[signature] 6/4/2008

[signature] 2819
SPE **Art Unit**

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HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K ST NW
SUITE 300
WASHINGTON DC 20006

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of
Kyoung Ho Lee
Application No. 10/879,524
Filed: June 30, 2004
Attorney Docket No. 40296-0127

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the "PETITION TO ACCOMPANY OATH OR DECLARATION WHEN THERE IS A NONSIGNING INVENTOR UNDER 37 C.F.R. § 1.47", filed November 19, 2004, which is being treated as a petition under 37 C.F.R. § 1.47(b).

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 30, 2004, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on August 19, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and the statutory basic filing fee, as well as a surcharge for their late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. As a one month extension of time is necessary to make this reply timely, the $110 fee for a one month extension of time has been charged to Deposit Account No. 08-1641, as authorized.

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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (2), (5), or (6).

There is no indication that Rule 47 applicant has submitted an **executed** declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant has not submitted a copy of the assignment nor a statement under 37 C.F.R. § 3.73(b) by the assignee.[2] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[3]

As to requirement (6), this requirement may be met by a statement that a filing date is necessary to preserve the rights of the

---

[1] See MPEP 409.03(b).

[2] See MPEP 409.03(f).

[3] Id.

party or to prevent irreparable damage.[4]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[4] See MPEP 409.03(g).

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United States Patent and Trademark Office
P.O. Box 1450
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HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K ST NW
SUITE 300
WASHINGTON DC 20006

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of
Kyoung Ho Lee
Application No. 10/879,524
Filed: June 30, 2004
Attorney Docket No. 40296-0127

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)", filed February 15, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 30, 2004, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on August 19, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and the statutory basic filing fee, as well as a surcharge for their late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 C.F.R. § 1.47(b), and paid both the petition fee and the surcharge for late filing of the declaration. To make the petition timely, the $110 fee for a one month extension of time was charged to petitioner's deposit account. However, the petition was dismissed in a decision mailed on December 15, 2004.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration."[1] However, the MPEP also states that:

> a corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[2]

Here, the declaration is executed by Hyun Koo Choi, "Team Manager". A "team manager" is not a presumptive officer of a corporation. Nor has Rule 47 applicant provided a statement that Choi is authorized to sign on behalf of the corporation Hynix Semiconductor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

---

[1] MPEP 409.03(b).

[2] Id.

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER EHRMAN WHITE & MCAULIFFE LLP
1666 K ST NW
SUITE 300
WASHINGTON DC 20006

COPY MAILED

JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Kyoung Ho Lee	:	
Application No. 10/879,524	:	DECISION ACCORDING STATUS
Filed: June 30, 2004	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 40296-0127	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)", filed April 18, 2005.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The above-identified application was filed on June 30, 2004, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on August 19, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and the statutory basic filing fee, as well as a surcharge for their late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 C.F.R. § 1.47(b) on November 19, 2004, and paid both the petition fee and the surcharge for late filing of the declaration. To make the petition timely, the $110 fee for a one month extension of time was charged to petitioner's deposit account. However, the petition was dismissed in a decision mailed on December 15, 2004. Applicant filed a request for reconsideration on February 15, 2005. However, that petition was dismissed in a decision mailed on March 1, 2005.

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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

The petitions filed on November 19, 2004, February 15, 2005, and April 18, 2005 have been reviewed and found to be in compliance with 37 CFR 1.47(b). The declaration filed with the instant petition has been determined to be in compliance with 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2816 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KYOUNG HO LEE
301-1003 DAECHANG 5-CHA
YULLYANG-DONG
SANGDANG-GU
CHEONGIU-SI
CHUNGCHEONGBUK-DO 360-210
KOREA

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Kyoung Ho Lee :
Application No. 10/879,524 :
Filed: June 30, 2004 : LETTER
Title: Internal Clock Doubler :
:

Dear Mr. Lee:

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(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, 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

Daniel L. Girdwood
Heller Ehrman LLP
1717 Rhode Island, NW
Washington, DC 20036
(202)912-2000

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Barry Schnieders	: DECISION ON REQUEST FOR
Patent Number	: 7632273	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,553	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

Mail Date: 07/29/2010

Applicant	: Lawrence Edwin Menten	: DECISION ON REQUEST FOR
Patent Number	: 7653874	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/879,583	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1606** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Christopher Korte, et al. :
Application No. 10/879,591 : DECISION ON PETITION
Filed: June 30, 2004 : TO WITHDRAW
Attorney Docket No. 53051/297269US : 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 21, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kilpatrick Stockton, LLP has been revoked by the assignee of the patent application on March 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN A. DRAGSETH, ESQ.
FISH & RICHARDSON, PC
60 SOUTH SIXTH STREET
SUITE 3300
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/879,591	06/30/2004	Thomas Christopher Korte	53051/297269US

CONFIRMATION NO. 8423

OC000000024998103

40400
PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

Date Mailed: 07/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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PATENT DEPARTMENT - 53051
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
DYNIN, Misha :
Application No. 10/879,592 : DECISION ON PETITION
Filed: June 30, 2004 : TO WITHDRAW
Attorney Docket No. **16113-340001/GP-222-00-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 February 20, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to KILPATRICK STOCKTON LLP has been revoked by the assignee of the patent application on March 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Gray
Petitions Examiner
Office of Petitions

cc: **JOHN A. DRAGSETH, ESQ.**
FISH & RICHARDSON P.C.
60 SOUTH SIXTH STREET SUITE 3300
MINNEAPOLIS, MN 55402

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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of :
Dynin :
Application No. 10/879,592 : DECISION ON PETITION
Filed: June 30, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 16113-340001/GP-222-00-US :
For: METHODS AND SYSTEMS FOR ENDORSING SEARCH RESULTS :

This is a decision on the petition, filed January 10, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 13, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date as August 30, 2007, accompanies this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being returned to Technology Center A.U. 2167 for consideration of the amendment filed on March 26, 2007 and the IDS filed on May 15, 2007.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/879,592	06/30/2004	Misha Dynin	16113-340001/GP-222-00-US

CONFIRMATION NO. 8418

26192
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/24/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/30/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/879,592	06/30/2004	Misha Dynin	16113-340001/GP-222-00-US

CONFIRMATION NO. 8418

26192
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/24/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/30/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Application of :
MIMURA, et al. :
Application No. 10/879,595 : DECISION ON PETITION
Filed: June 30, 2004 : TO WITHDRAW
Attorney Docket No. 21089/0206956-US0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 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 15, 2007 and re-submitted September 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY PC**
P.O. BOX 770
CHURCH STREE STATION
NEW YORK, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Masako Mitani	: DECISION ON REQUEST FOR
Patent Number	: 7623527	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Elissa E. Murphy	: DECISION ON REQUEST FOR
Patent Number	: 7664819	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,626	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1417** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 18 2010

OFFICE OF PETITIONS

RICHARD ESTY PETERSON
Patent Attorney
1905-D PALMETTO AVENUE
PACIFICA, CA 94044

In re Application of :
Roulette W. Smith, et al. :
Application No. 10/879,627 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 5076 (A) :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 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 March 31, 2009, which set a shortened statutory period for reply of three (3) months. On August 4, 2009, using a certificate of mailing dated July 31, 2009, applicant filed a Request for Continued Examination (RCE), as well as a 1-month petition for extension of time under the provisions of 37 CFR 1.136(a). It is noted that the RCE was not acceptable, as the requisite filing fee was not paid. In view of the 1-month extension of time, the application became abandoned on July 31, 2009. This decision precedes the mailing of a Notice of Abandonment. 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 a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1631 for processing of the RCE filed on August 4, 2009, using a certificate of mailing dated July 31, 2009, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP
1667 K STREET, N. W., SUITE 700
WASHINGTON, DC 20006

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OCT 10 2007

OFFICE OF PETITIONS

In re Application of
Tuschel et al.
Application No. 10/879,636
Filed: June 30, 2004
Attorney Docket No. CHE01 003

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 24, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on June 30, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2877 for appropriate action on the amendment submitted September 24, 2007, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/879,636	06/30/2004	2877	2400	CHE01 003	89	6

CONFIRMATION NO. 8064

DUANE MORRIS LLP
1667 K Street, N. W., Suite 700
Washington, DC 20006

CORRECTED FILING RECEIPT

OC000000026210695

Date Mailed: 10/09/2007

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)

David Tuschel, Monroeville, PA;
Wesley H. Hutchison, Residence Not Provided;
Myles P. Berkman, Pittsburgh, PA;

Power of Attorney:

L Rogers III--24302
Donald English--42514
Patrick McPherson--46255
Mark Comtois--46285

Domestic Priority data as claimed by applicant

This application is a CIP of 10/698,243 10/31/2003
which claims benefit of 60/422,604 10/31/2002
This application 10/879,636
is a CIP of 10/698,584 10/31/2003
which claims benefit of 60/422,604 10/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/879,636

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for dark field chemical imaging

Preliminary Class

356

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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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE WA 99201

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
John P. Knapp :
Application No. 10/879,640 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. IN60-001 : 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 April 1, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "inventor assigned patent rights and I do not represent the assignee", 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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: HANNAH T. TRAN
INNOVATION MANAGEMENT SERVICES
650 CASTRO STREET
SUITE 120-333
MOUNTAIN VIEW, CA 94041

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601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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In re Application of :
KNAPP, John R. et al. :
Application No. 10/879,640 : DECISION ON PETITION
Filed: June 28, 2004 : TO WITHDRAW
Attorney Docket No. **17805.1.1** : 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 November 13, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Wells St. John P.S. has been revoked by the assignee of the patent application on November 18, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WORKMAN NYDEGGER**
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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JEFFREY S. WHITTLE
BRACEWELL & PATTERSON
P.O. BOX 61389
HOUSTON TX 77208-1389

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of

HABERLAND, et al.
Application No. 10/879,644
Filed: June 29, 2004
Attorney Docket No. **32528.004**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MEYERS & KAPLAN INTELLECTUAL PROPERTY LAW LLC**
1899 POWERS FERRY ROAD, SUITE 310
ATLANTA, GA 30339

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OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

In re Application of :

HABERLAND, et al. :
Application No. 10/879,644 : DECISION ON PETITION
Filed: June 29, 2004 : TO WITHDRAW
Attorney Docket No. **32528.004** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed October 1, 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 Jeffrey S. White on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GARY W. HABERLAND**
4630 SOUTH KIRKMAN, #806
ORLANDO, FL 32811

cc: **MYERS & KAPLAN INTELLECTUAL PROPERTY LAW, LLC**
1899 POWERS FERRY ROAD, SUITE 310
ATLANTA, GA 30339

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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Masleio et al. :
Application No. 10/879,645 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. TRAN-P321 :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 8, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee and the publication fee, as required by the Notice of Allowance and Fee (s) Due which was mailed March 15, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 16, 2006. A Notice of Abandonment was mailed on July 19, 2006.

Petitioner asserts that a reply to the Notice of Allowance in the form of an RCE and Information Disclosure Statement (IDS) was timely submitted on April14, 2006. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply on April 14, 2006. Additionally, petitioner has supplied a copy of the previously mailed correspondence which also contains a certificate of mailing pursuant to 37 CFR 1.8.

A review of the evidence presented shows that the RCE transmittal and IDS contained the incorrect application number. The correct application number is 10/879,645, not 10/823,645. The correspondence did contain the correct art unit, filing date, confirmation number and title.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted April 14, 2006 has not been located in the Office. However, based on

the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 for further processing of the RCE and IDS.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

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NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Scott W. Demarest :
Application No. 10/879,647 :
Filed: June 29, 2004 :
Attorney Docket No. J-3515 :

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 (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/879,648	06/29/2004	2671	964	066243-0262 (144279)	5	26	4

CONFIRMATION NO. 6993

CORRECTED FILING RECEIPT

OC000000014004555

33679
GE MEDICAL SYSTEM
C/O FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5367

Date Mailed: 10/05/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mark M. Morita, Arlington Heights, IL;
Steven L. Fors, Chicago, IL;
Khal A. Rai, Round Lake, IL;

Assignment For Published Patent Application

GE Medical Systems Information Technologies, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **33679**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/17/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/879,648

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

3D display system and method

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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ALFRED A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Sean Zito	:	
Application No. 10/879,712	:	DECISION ON REQUEST
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. 3350-133CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed June 29, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with Customer No. 020457 was revoked by the assignee of the patent application on November 21, 2005. Accordingly, the request to withdraw under 37 CFR §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.

There is no outstanding Office action that requires a reply from applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Wallis et al.	:	DECISION ON PETITION
Application No. 09/879,767	:	TO WITHDRAW
Filed: June 12, 2001	:	FROM RECORD
Attorney Docket No. 27478-04000	:	

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 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 Warren M. Haines, II on behalf of all attorneys of record who are associated with Customer Number 24024.

All attorneys/agents associated with Customer Number 24024 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 Gidon Wallis at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed December 19, 2005.

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:

GIDON WALLIS
CALTON ON MADISON
22 E. 29TH STREET, APT. 116
NEW YORK, NY 10016

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OFFICE OF PETITIONS

NIELDS & LEMACK
176 EAST MAIN STREET, SUITE 7
WESTBORO MA 01581

In re Application of :
Alan Smith :
Application No. 10/879,776 : DECISION ON PETITION
Filed: June 29, 2004 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: :
P08304US00/DEJ :
Title: DEVICE AND METHOD FOR :
RECTAL LAVAGE :

This is a decision on the petition filed March 8, 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 August 10, 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 November 11, 2006. A notice of abandonment was mailed on April 10, 2007.

With the present petition, Petitioner has asserted that the response was not received, as it was mailed to the wrong address.

It is noted that a Power of Attorney and Correspondence Address Indication Form was submitted on November 12, 2004.

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 record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final action of August 10, 2006, and will set a new period for response.

The Power of Attorney and Correspondence Address Indication Form, submitted originally on November 12, 2004, and re-submitted with the present petition, has been entered and made of record.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. 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

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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 Petitioner's further action(s).

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FORT WORTH TX 76134

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SEP 26 2008

OFFICE OF PETITIONS

In re Application of :
Mikhail BOUKHNY et al. :
Application No. 10/879,789 :
Filed: June 29, 2004 :
Attorney Docket No. 2715 US :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 5, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

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). See the enclosed PTOL-303.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 Karin Reichle at (571) 272-6051.

David Bucci
Petitions Examiner
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief, PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/879,789	**Applicant(s)** BOUKHNY ET AL.	
	Examiner Pascal M. Bui-Pho	**Art Unit** 2878	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 July 2008 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 Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *26-43 and 45*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-25*.
   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: _____.

/Georgia Y Epps/
Supervisory Patent Examiner, Art Unit 2878

/Pascal M. Bui-Pho/
Examiner, Art Unit 2878
22 September 2008

Continuation of 3. NOTE: The proposed amendment of Claim 1, namely the deletion of the preamble and the inclusion of the limitation "a port in communication with the pressure chamber and being configured to communicate with an ophthalmic system" raise new issues that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: The rejections set forth at least under 35 U.S.C 112, second paragraph in Office action mailed 04 May 2007 have not been overcome.

/Georgia Y. Epps/
Supervisory Patent Examiner, Art Unit 2878

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAY 12 2008

In re Application of

Kyle J. McKay :

Application No. 10/879,809

: DECISION ON PETITION

Filed: June 28, 2004

:

Attorney Docket No. 020414C1

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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 April 30, 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 July 31, 2007. A Notice of Abandonment was mailed on December 31, 2007.

The amendment and terminal disclaimer filed April 11, 2008, are noted.

The application is being forwarded to Technology Center 2600, GAU 2618 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Kyle J. McKay	: DECISION ON REQUEST FOR
Patent Number	: 7574183	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **688** 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.