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OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Venkatasubramanian Radhakrishnan Tarur
Application No. 10/879,816
Filed: June 29, 2004
Attorney Docket No. USV

: DECISION GRANTING PETITION

This is a decision on the petition filed August 24, 2004, requesting that the above-identified application be accorded a filing date of June 29, 2004, rather than the presently accorded filing date of July 19, 2004, with a complete specification as a part of the original disclosure. This petition is treated under 37 CFR 1.53.

The petition is GRANTED.

The application was filed on June 29, 2004. The application transmittal indicated that a 24 page specification was being filed with the application, however, only one page was found with the application papers filed on that date. Prior to the mailing of the "Notice of Incomplete Nonprovisional Application", a replacement specification and a replacement preliminary amendment were received in the USPTO on July 19, 2004. On August 19, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because a complete specification in compliance with 35 U.S.C. § 112 was missing.

In response, on August 24, 2004, the present petition was filed, accompanied by, inter alia, 24 pages of specification (including 7 pages of claims). Petitioners assert that the specification was included with the other application papers and thus that the above-identified application was complete upon filing on June 29, 2004.

An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes the papers were among the papers included in the application is not more persuasive than the actual papers shown to have been received by the official file

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice

of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioner claims that the postcard receipt included with the application papers was not returned by the USPTO and thus there is no proof of the papers purportedly filed.

Likewise, the Express Mail label has been included as proof of mailing but is also not persuasive evidence of the receipt of the specification on June 29, 2004. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10 to establish what documents and or fees were filed in the Office with such correspondence. Reliance on an express mail label is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

A search of the official file however does reveal that on June 29, 2004, a "Utility Patent Application Transmittal" letter indicated that the application was a continuation in part of application No. 10/714,724, and that the entire disclosure from the prior application is incorporated by reference.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on June 29, 2004, stating that the entire disclosure of Application No. 10/714,724 was incorporated by reference in the present application, it appears that the specification was present in the Office on June 29, 2004, albeit in the file of another application, i.e., Application No. 10/714,724. Therefore, on petition, the application may be accorded the requested filing date.

Since the petition was required to accord the requested filing date, the petition fee of $130.00 will not be refunded.

The primary examiner is expected to compare the specification and claims supplied on August 24, 2004, to the disclosure of prior application No. 10/714,724 in order to verify that the specification is in fact, a part of the disclosure of the prior application but in view of the replacement specification and replacement preliminary amendment filed July 19, 2004, the application should be processed and examined using the papers filed on that date.

The application is being forwarded to the Office of Initial Patent Examination for

correction of the filing date to June 29, 2004, using the application papers filed August 24, 2004 and that while the 24 pages of specification and claims supplied on August 24, 2004 were not present on filing, they were a part of the original disclosure.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DEC 28 2004

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
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MORRISTOWN NJ 07960-7397

In re Application of	:
V. R. Terur et al	:
Serial No.: 10/879,816	: PETITION TO MAKE SPECIAL
Filed: June 29, 2004	:
Attorney Docket No.: USV	:

This is in response to applicants' petition filed August 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

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

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MORRISTOWN, NJ 07960-7397

Mail Date: 04/20/2010

Applicant	: Venkatasubramanian Radhakrishnan Tarur	: DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH
Patent Number	: 7439365	
Issue Date	: 10/21/2008	
Appliction No	: 10/879,816	
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/23/09

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/879824 Patent No.: 7249949B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

Cris L Rodriguez — SPE
3732 — Art Unit

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Dirk Adolph	: DECISION ON REQUEST FOR
Patent Number	: 7653284	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,842	: 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 **1188** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 No. 7,558,792

Issue Date: July 7, 2009

Application No. 10/879,843

Filed: June 29, 2004

Attorney Docket No. A1706Q1-US-NP
XERZ 2 0154

ON PETITION

This is a decision on the petition filed July 10, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of Pinol et al. :
Application No. 10/879,866 : Decision on Petition
Filing Date: June 28, 2004 :
Attorney Docket No. 105166-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 28, 2006. A Notice of Abandonment was mailed on November 29, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/29/09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10879868 Patent No.: 7443377 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Amos Ashland Arroyo
SPE

6/29/09
Art Unit

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

Mail Date: 04/20/2010

Applicant	: Eitan Farchi	: DECISION ON REQUEST FOR
Patent Number	: 7661099	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,871	: 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 **1267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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LOS ANGELES CA 90069

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OFFICE OF PETITIONS

In re Application of	:	
Blight et al.	:	
Application No.: 10/879881	:	DECISION ON
Filing or 371(c) Date: 06/28/2004	:	PETITION
Attorney Docket Number: 3591.PALM.PSI.CON	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed October 12, 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 March 20, 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 April 21, 2007. A Notice of Abandonment was mailed October 3, 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 2617 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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In re Application of :
Joshua L. Ferry et al. :
Application No. 10/879,901 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No: 80505.16

This is a decision on the petition filed October 19, 2006 under 37 CFR 1.182, for withdrawal of terminal disclaimer filed January 3, 2006.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed January 3, 2006, does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

This matter is being referred to Technology Center 2839 to correct the records related to the terminal disclaimer filed January 3, 2006, consistent with this decision.

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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NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

In re Application of	:	
David Ling, et al.	:	
Application No. 10/879,923	:	ON PETITION
Filed: June 28, 2004	:	
Attorney Docket No. 17745/09038-CIP-CON3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2005 and supplement filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to a final Office action mailed December 21, 2004. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114 filed June 30, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York NY 10017-5621

In re Application of :
Sadow : DECISION ON PETITION
Application No. 10/879,924 :
Filed: June 28, 2004 :
Docket No.: 206,571 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 9, 2007.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed August 2, 2006. Notice of Abandonment was mailed February 20, 2007.

Petitioner asserts that a response to the non-final Office action and a petition for extension of time were timely submitted on January 29, 2007 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated January 29, 2007 acknowledging receipt of the reply.

The original response, including petition for extension of time, was received January 29, 2007 and has been located in the application file. Accordingly, the reply is deemed to have been timely submitted.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 3700 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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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang KACZMAREK	:	DECISION ON PETITIONS
Application No. 10/879,928	:	UNDER 37 CFR 1.183 AND
Filed: June 28, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P13027WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/13253, filed November 25, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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

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

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/879,928	06/28/2004	1746	900	2001P13027WOUS	1	5	1

CONFIRMATION NO. 7440

CORRECTED FILING RECEIPT

OC000000020684297

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 10/03/2006

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

Applicant(s)

Wolfgang Kaczmarek, Schwindegg, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

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

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/13253 11/25/2002

Foreign Applications

GERMANY 10164505.8 12/28/2001
If Required, Foreign Filing License Granted: 08/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/879,928

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cutlery basket for a dishwasher

Preliminary Class

068

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

GRANTED

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

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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United States Patent and Trademark Office
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AUG 0 7 2006
OFFICE OF PETITIONS

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Giefer HEINZ-WERNER et al.	:	DECISION ON PETITIONS
Application No. 10/879,929	:	UNDER 37 CFR 1.183 AND
Filed: June 28, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2001P13025WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP02/13316, filed November 26, 2002, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/879,929	06/28/2004	1746	900	2001P13025WOUS	1	5	2

CONFIRMATION NO. 7441

CORRECTED FILING RECEIPT

OC000000019910559

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

Date Mailed: 08/04/2006

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)

Heinz-Werner Giefer, Sontheim, GERMANY;
Georg Hechtl, Dillingen, GERMANY;
Hans-Peter Nannt, Dettingen, GERMANY;
Horst Sipple, Giengen, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

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

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP02/13316 11/26/2002

Foreign Applications

GERMANY DE 101 64 507.4 12/28/2001
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 US10/879,929

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Device and method for collecting wastewater in dishwashers

Preliminary Class

134

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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under 37 CFR 5.13 or 5.14.

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NOT GRANTED

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Heinz-Werner Giefer	: DECISION ON REQUEST FOR
Patent Number	: 7597108	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/879,929	: 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 **665** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 : 07/21/09

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10879935 Patent No.: 6987702 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: OK, Approved. Please enter CoC. Thanks

V. Nguyen, AU 2827

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/21/09

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Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

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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: _____

2827

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of	:
Aharon Adar	:DECISION GRANTING PETITION
Application No. 10/879,940	:
Filed: June 28, 2004	:
Attorney Docket No. 060999-0146	:

This is a decision on the petition filed October 18, 2006, which is being treated as a petition under 37 CFR 1.10, requesting that the papers filed with the receipt date of September 19, 2006 be accorded the receipt date of September 18, 2006.

Petitioner requests the earlier filing date of the papers (Appeal Brief and an Extension of Time), on the basis that the papers were deposited with the U.S. Postal Service (USPS) as Express Mail on September 18, 2006, pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of the Express Mail Label No. EV907292909US which verifies the receipt date of September 18, 2006, for Express Mail label No. EV907292909US. The same Express Mail receipt number appears on the transmittal letter for the Appeal Brief and the Extension of time.

In view of the above, it is concluded that the papers were deposited as "Express Mail" with the USPS on September 18, 2006. Therefore, the Appeal Brief and the Extension of Time are accorded the receipt date of September 18, 2006 in the USPTO.

The petition is **granted**.

Petitioner should be aware that the filing of a timely reply to the Notice mailed September 27, 2006, expires on March 27, 2007.

The application file is being referred to Technology Center AU 2817 to await a reply to the Notice mailed September 27, 2006.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

DATE 12/19/08 APPLICATION NUMBER 10/879,972

DOC CODE PET.DEC.TC DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

RECEIVED
DEC 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Amaitis, et al.	:	
Application No. 10/879,972	:	DECISION GRANTING PETITION
Filed: June 28, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 04-7124	:	

This is a decision on the petition, filed July 14, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed under a multinational treaty on June 28, 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 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3714 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/879,972	06/28/2004	Lee M. Amaitis	04-7124

CONFIRMATION NO. 7609

63710
DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

NONPUBLICATION RESCISSION LETTER

OC000000033725253

Date Mailed: 12/19/2008

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

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

The projected publication date is 04/02/2009.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/kathornton mclaughl/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SQUIRE SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO CA 94111

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of	:	
David C. Gale, Bin Huang, John M.	:	
Capek, John Y. Yan, Houdin Dehnad	:	DECISION REFUSING
Application No. 10/880,025	:	STATUS UNDER § 1.47(a)
Filing Date: June 28, 2004	:	
Attorney Docket No. 62571.00012	:	

This is a decision in response to the "PETITION UNDER 37 C.F.R. § 1.47(a): FILING WHEN AN INVENTOR REFUSES TO SIGN," filed November 24, 2004.

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

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

The above-identified application was filed on June 28, 2004, without, *inter alia*, an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on August 24, 2004. This Notice set an extendable period for reply of two months. On November 24, 2004, applicants filed the instant petition, made timely by obtaining a one month extension of time.

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

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it contains a non-initialed, non-dated alteration to the citizenship of inventor Houdin Dehnad.[1] Regarding this, the Manual of Patent Examining Procedure states that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."[2]

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

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

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

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[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

[2] MPEP 605.04(a).

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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SQUIRE SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
David C. Gale, Bin Huang, John M.	:	
Capek, John Y. Yan, Houdin Dehnad	:	DECISION ACCORDING
Application No. 10/880,025	:	STATUS UNDER § 1.47(a)
Filing Date: June 28, 2004	:	
Attorney Docket No. 62571.00012	:	

This is a decision in response to the "PETITION UNDER 37 C.F.R. § 1.47(a):", filed January 14, 2005.

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

The above-identified application was filed on June 28, 2004, without, *inter alia*, an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on August 24, 2004. This Notice set an extendable period for reply of two months. On November 24, 2004, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a one month extension of time. However, the petition was dismissed in a decision mailed on December 16, 2004.

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

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

No fee is required for a renewed petition. Accordingly, the $200 charged by Office for the petition filed January 14, 2005 will be refunded to petitioner under separate cover.

The application file is being forwarded to Group Art Unit 3763 for docketing and examination in due course.

Telephone inquiries concerning 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

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of :
McCarthy, et al. : DECISION ON PETITION
Application No. 10/880,026 :
Filed: June 28, 2004 :
Docket No.: ACIZ-P02-019 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 31, 2007.

This application was held abandoned for failure to timely submit an appeal brief in response to the Pre-Brief Appeal Conference Decision (Decision) mailed May 31, 2007. The Decision set a one month shortened statutory period of time for reply and permitted extensions of time under 37 CFR 1.136. The Notice of Abandonment was mailed October 29, 2007.

Petitioners argue that the Notice of Abandonment was mailed in error, having been mailed prior to the expiration of the maximum period of time for reply to the Decision.

The Decision mailed May 31, 2007 set a one month shortened statutory period of time in which to submit an appeal brief. The period of time for submission of the appeal brief was extendible under the provisions of 37 CFR 1.136. The Notice of Abandonment was prior to the maximum period of time permissible for reply.

Accordingly, petitioners' arguments have been carefully considered and found convincing. In view of the arguments submitted, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for further processing of the request for continued examination (RCE) submitted herewith.

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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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
KUUSINEN, Jarmo et al.	:	
Application No. 10/880,027	:	DECISION ON PETITION
Filed: June 28, 2004	:	TO WITHDRAW
Attorney Docket No. **061602-2203**	:	FROM RECORD
	:	

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008 and resubmitted September 22, 2008.

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

A review of the file record indicates that the power of attorney to Foley & Lardner LLP has been revoked by the assignee of the patent application on September 11, 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: **BANNER & WITCOFF, LTD.**
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of
Timothy N. Holloway, et al.
Application No. 10/880,033
Filed: June 28, 2004
Attorney Docket No. GB920030053US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 15, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 19, 2008. A Notice of Abandonment was mailed on December 11, 2008. On December 15, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LYNNE D. ANDERSON
333 JOHN CARLYLE STREET, SUITE 635
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/9/09 Paper No.: —

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/880038 Patent No.: 7545858 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: The changes made were informalities and did not change the scope of the claims

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

JONES, WALKER, WAECHTER, POITEVENT,
CARRERE & DENGRE, L.L.P.
4th FLOOR
8555 UNITED PLAZA BOULEVARD
BATON ROUGE LA 70809

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JUL 11 2007

Director's Office
Office of Patent Publication

In re Application of	:	
HOGAN, MICHAEL G. et, al	:	
Application No. 10/880,040	:	**DECISION ON PETITION**
Filed: June 29, 2004	:	
Attorney Docket No. **16437/93700-03**	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment under, received in the United States Patent & Trademark Office (USPTO) on June 28, 2007.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed February 12, 2007. The Notice of Abandonment, mailed on June 11, 2007 indicates, "The submitted fee of $0 is insufficient. A balance of $1000 is due for. The issue fee required by 37 CFR 1.18 is $700. The publication fee, if required by 37 CFR 1.18(d) is $300."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on May 7, 2007 authorizing that the Issue Fee be charged to Deposit Account No. 50-1896. On May 7, 2007, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 163.

Nina Motley

Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BATON ROUGE LA 70809

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:
Michael G. Hogan	:
Application No. 10/880,040	: DECISION GRANTING PETITION
Filed: June 29, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 16437/93700-03	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of February 12, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management to be process into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH J. ZITO
ZITO tlp
26005 RIDGE ROAD, SUITE 203
DAMASCUS, MD 20872

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OFFICE OF PETITIONS

In re Application of	:	
MURAKAMI et al.	:	
Application No. 10/880,042	:	DECISION ON PETITION
Filed: June 29, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UPS-27	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The amendment filed April 28, 2005 references a prior-filed application, U.S. Patent Application No. 10/625,125, which is unrelated to U.S. Patent Application No. 10/067,437, the parent application of the above-identified application. The amendment to the first paragraph on page 1 includes a domestic claim of priority to "U.S. Patent Application No. 10/625,125 filed July 23, 2003, now U.S. Patent No. 6,810,798" (emphasis added.) The petition, however, claims priority to U.S. Patent Application No. 10/625,165, now U.S. Patent No. 6,810,798. According to PTO

records, the correct application number to reference in the claim for priority is U.S. Patent Application No. 10/625,165, which is not the application number in the April 28, 2005 amendment. In addition, any amendment of an IFW application must be by way of a formal examiner's amendment or be an amendment made by applicant. See MPEP 1302.04.

Before the petition can be granted, petitioner must submit a substitute amendment with the correct application number referenced, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

Any inquiries concerning this decision may be directed to Denise Pothier at (571) 272-4787.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JOSEPH J. ZITO
ZITO tlp
26005 RIDGE ROAD, SUITE 203
DAMASCUS, MD 20872

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OFFICE OF PETITIONS

In re Application of	:	
MURAKAMI et al.	:	
Application No. 10/880,042	:	DECISION ON PETITION
Filed: June 29, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UPS-27	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 15, 2005, 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of

priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

A two-month extension of time fee of $450 for the after-final amendment has been charged to petitioner's deposit account as authorized in the petition.

Any inquiries concerning this decision may be directed to Denise Pothier at (571) 272-4787. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2854 for appropriate action on the amendment filed on December 15, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

KRATON POLYMERS U.S. LLC
WESTHOLLOW TECHNOLOGY CENTER
3333 HIGHWAY 6 SOUTH
HOUSTON TX 77082

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Director's Office
Office of Patent Publication

In re Application of
ST. CLAIR, DAVID J. et, al
Application No. 10/880,055
Filed: June 29, 2004
Attorney Docket No. **W0034B**

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment under 37CFR 1.181, received in the United States Patent & Trademark Office (USPTO) on April 14, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed November 21, 2005. The Notice of Abandonment, mailed on April 4, 2006 indicates, "The submitted fee of $1,400 is insufficient. A balance of $300 is due for. The issue fee required by 37 CFR 1.18 is $1,400. The publication fee, if required by 37 CFR 1.18(d) is $300."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on November 29, 2005 authorizing that the Issue Fee be charged to Deposit Account No. 50-1951. On November 29, 2005 , when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 163.

Nina Motley

(for) Nina D. Motley
Quality Operations Assistant
Office of the Director
Office of Patent Publications

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3333 HIGHWAY 6 SOUTH
HOUSTON, TX 77082

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of	:	
David J. St. Clair et al	:	
Application No. 10/880,055	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. W0034B	:	

This is a decision on the petition filed June 26, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 21, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 22, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK CA 94560

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Chang et al. :
Application No. 10/880,063 : DECISION ON PETITION
Filed: June 28, 2004 :
Attorney Dkt No.: 139-014DV1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to a non-final Office Action mailed December 17, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 18, 2005. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

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

Charlema R. Grant
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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JENNIFER D. ADAMSON
SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Murray, et al. :
Application No. 10/880,072 :
Submitted: June 29, 2004 :
Attorney Docket No. TH2064(US) :

ON PETITION

This is a decision on papers filed on September 27, 2004, which is also being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of June 29, 2004, including drawings.

The application was submitted on June 29, 2004. However, on August 16, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

Applicant has not submitted the drawings requested in the Notice, nor has Applicant presented any argument as to the granting of a filing date for this application. As such, a filing date shall not be accorded to the above-identified application at this time.

Please note, 35 USC 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." Applicant should reconsider whether drawings are necessary under 35 USC 113 (first sentence).

As such, at the present time, the petition regarding the filing date must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.

This time period may be extended pursuant to 37 CFR 1.136.

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

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

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

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

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

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

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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JENNIFER D. ADAMSON
SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Murray, et al.	:	
Application No. 10/880,072	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. TH2064(US)	:	

This is a decision on papers filed on November 12, 2004 and March 29, 2006, requesting that the above-identified application be accorded a filing date of June 29, 2004.

The application was submitted on June 29, 2004. However, on August 16, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on September 27, 2004, the original petition was filed.

Petitioner states, in pertinent part:

> [T]he application as filed included eighteen claims, each directed to either a process for producing an alkylbenzene or a process for producing cumene. Accordingly, Applicants submit that a drawing is not necessary for the understanding of the subject matter sought to be patented as required by 37 C.F.R. 1.81."

It is noted that the petition contains the statement that drawings are not necessary and the petition is signed by a registered practitioner.

Furthermore, it is confirmed that the nonprovisional application contains a process claim that includes the term "process" in its' introductory phrase and therefore drawings are not required.

MPEP 608.02 states:

> "An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:
>
> > (A) at least one process claim including the term "process" or "method" in its introductory phrase;

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

Accordingly, the petition is granted.

The petition fee has not been charged.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date June 29, 2004, with zero (0) drawings received on that date, and the mailing of a corrected filed receipt.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 25 2007

OFFICE OF PETITIONS

POWER SYSTEMS MANUFACTURING
1440 WEST INDIANTOWN ROAD
SUITE 200
JUPITER, FL 33458

In re Application of

Stuttaford, et al.:

Application No. 10/880,073

Filed: June 29, 2004

Attorney Docket No. PSM-147

: DECISION ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 5, 2007. 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 July 6, 2007. A Notice of Abandonment was mailed on July 31, 2007.

The issue fee and publication fee were received on August 28, 2007.

Form PTOL-85B, filed August 28, 2007, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 23 2010

OFFICE OF PETITIONS

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

In re Application of	:	
Fuhu Chen et al.	:	
Application No. 10/880,078	:	DECISION ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. 22176.2 con	:	

This is a decision on the petition, filed December 10, 2009, a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application which was filed concurrently with a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Petitioner asserts that the response to the final rejection mailed on May 12, 2009 was received. A reply was received by the Office November 12, 2009, with the required fee of $540. At the time of the filing of the reply, a three month extension of time was necessary to for a timely reply.

It is not the policy of the Office to inform applicants of any deficiencies of fee payments by way of telephone. Any phone calls that are made are a courtesy to the applicant. It is the responsibility of the applicant to ensure that funds are available in whichever payment method is provided when filing documents that require a fee. On November 13, 2009 an attempt was made to deposit account number 502233 in the amount of $1,110 for the extension of time fee. At that time, there were insufficient funds in the deposit account to charge the fee. The amount available at the time was $869. The deposit account was replenished on November 16, 2009. Therefore the reply was not timely filed.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, May 12, 2009, which set a shortened statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were unsuccessfully attempted. Accordingly, the application became abandoned on August 13, 2009. A Notice of Abandonment was mailed on December 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, with the required fee of $540, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal is accepted as being unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

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

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business on the reply received November 12, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 26 2007

OFFICE OF PETITIONS

ROBERT E. KREBS
THELEN REID & PRIEST, LLP
PO BOX 640640
SAN JOSE, CA 95164-0640

In re Application of	:	
Peter J. Nysen, et al.	:	
Application No. 10/880,108	:	DECISION ON PETITION
Filed: June 28, 2004	:	TO WITHDRAW
Attorney Docket No. 035826-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2006 and the renewed petition dated October 10, 2006.

The request is **APPROVED**.

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

The request was signed by Robert E. Krebs on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The 3.73(b) statement filed with the power of attorney is not proper because it does not list the proper reel and frame number.

There is an outstanding Office action mailed February 5, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER J. NYSEN
819 CLARK WAY
PALO ALTO, CA 94304

cc: KEITH L. COCITA
PATENT LAW PROFESSIONALS
1762 TECHNOLOGY DIRVE
SUITE 112
SAN JOSE, CA 95110

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
10/880,108	06/28/2004	Peter J. Nysen	035826-003

CONFIRMATION NO. 7960

OC000000023428061

OC000000023428061

ROBERT E. KREBS
THELEN REID & PRIEST, LLP
PO BOX 640640
SAN JOSE, CA 95164-0640

Date Mailed: 04/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

EDWARD L. WHITE, P.C.
13924-B QUAIL POINTE DRIVE
OKLAHAMA CITY OK 73134

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 7,221,281	:	
Issue Date: 05/22/2007	:	
Application No. 10/880123	:	DECISION DISMISSING PETITION
Filed: 06/30/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOUNG VCIP18-13	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on October 23, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120.

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 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.

Petitioner states that "[a]n application for issue is being filed substantially contemporaneous with this petition. Both this petition and the reissue application seek to correct the priority claim in U.S. Pat. No. 7,221,281."

At the outset, the petition to correct the priority claim under 37 CFR 1.78(a)(3) in a reissue application based on the subject patent must be filed in the reissue application rather than in the original application. 37 CFR 1.4(b) states that since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains. Accordingly, the petition must be filed in the reissue application in which the claim of benefit is sought to be made.

Further, the petition does not include 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, as prescribed by 37 CFR 1.78(a)(3)(i). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a petition under 37 CFR 1.78(a)(3) in the reissue application.[1]

As the petition under 37 CFR 1.78(a)(3) must be submitted in the reissue application, the petition fee is being credited to counsel's deposit account. The fee should be submitted with the petition under 37 CFR 1.78(a)(3) filed in the reissue application.

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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JOHN HENRY ROSSIO
6000 E. DELL LANE
INVERNESS FL 34452

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of JOHN HENRY ROSSIO Application No. 10/880,136 Filed: 06/30/2004 Title: CHARLIE THE DOORMAN AN AUTOMATIC STORM DOOR HOLDING OPEN DEVICE RETROFITABLE TO EXISTING AIR OVER SPRING CYLINDER DOOR CLOSERS	:	ON PETITION

This is in response to the petition under 37 CFR 1.137(a), filed July 2, 2007, to revive the above-identified application.

The petition is **dismissed**.

Petitioner submitted the outstanding balance of the issue fee in the amount of $350.00, as well as a $100.00 fee for filing the present petition. The current fee required by law on filing a petition under 37 CFR 1.137(a) is $250.00. Therefore, the petition fee is insufficient in the amount of $150.00. For this reason, the petition under 37 CFR 1.137(a) will not be treated on its merits. The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay.

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the filing of a new petition under 37 CFR 1.137 and paying the entire petition fee required by statute.

As petitioner is acting *pro se*, the Office reminds petitioner that 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.[1]

[1] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987).

Petitioner may wish to file a petition under 37 CFR 1.137(b) due to unintentional delay rather than a petition under 37 CFR 1.137(a). A petition under 37 CFR 1.137(b) is significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant. Therefore, if petitioner files a petition under 37 CFR 1.137(b), petitioner would need to submit: (1) a petition under 37 CFR 1.137(b) and (2) pay the petition fee required by statute ($750.00). The appropriate form accompanies this communication for petitioner's convenience.

The Office acknowledges receipt of the entire payment of the issue fee and the publication fee. The $100.00 miscellaneous fee intended as the petition fee will be refunded by treasury check in due course.

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) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure

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.

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

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

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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APR 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Allan Svendsen :
Application No. 10/880,144 : ON PETITION
Deposited: June 28,2004 :
Attorney Docket No.:6072.220-US :
Title of Invention: Pullulanase :
Variants and Methods for Preparing :
Such Variants with Predetermined
Properties

This is a decision on the petition filed December 27, 2004, requesting that the above-identified nonprovisional application be accorded a filing date of June 28, 2004.

Application papers in the above-identified application were deposited on June 28, 2004. However, on October 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on December 27, 2004(certificate of mailing December 23, 2004) ,for the purposes of this decision, petitioner submitted an oath and declaration and a copy of the omitted figure. Applicant indicated that the drawings were not new matter and requested a filing date June 28, 2004.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

---

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

Since the application should have been accorded a filing date and a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of June 28, 2004 without drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawing may be submitted. In view of the incorporation by reference of the prior application 09/996,024, figure 1 would not be considered new matter, if the figure was part of the disclosure of the prior application. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **June 28, 2004**, without any drawings.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 07/30/2010

Applicant	: Peter R. Mungula	: DECISION ON REQUEST FOR
Patent Number	: 7653929	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/880,148	: 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 **1180** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Hong Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7594236	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,155	: 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 **1337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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.:20080430

DATE : April 30, 2008

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction on Patent No.: 7,333,924

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:

KAMINI SHAH
SUPERVISORY PATENT EXAMINER

AU 2128

SPE: Art Unit

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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA, CA 95050

Mail Date: 04/21/2010

Applicant	: Sheng-Chi Luo	: DECISION ON REQUEST FOR
Patent Number	: 7664665	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,182	: 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 **1633** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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: S. Morano IU

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/9/07

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/880,184 Patent No.: 7090552

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3617
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Kevin Hall	:	
Application No. 10/880,195	:	DECISION ON PETITION
Filed: June 29, 2004	:	TO WITHDRAW
Attorney Docket No. 3SSP 02506 C1US	:	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 3, 2005.

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

A review of the file record indicates that the power of attorney to John G. Fischer and all the attorneys/agents of record who is associated with customer No. 32233 have been revoked by the applicant 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 continue to be directed to the below-listed address until otherwise notified by applicant.

This application is being referred to Technology Center AU 3711 to await a reply to the non-final Office action mailed January 27, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: ANDERSON LEVINE & LINTEL
14785 PRESTON ROAD, SUITE 650
DALLAS, TX 75254

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OFFICE OF PETITIONS

In re Application of	:	
Patrick A. Tyndall	:	
Application No. 10/880,197	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. MIC-64 (P50-0139)	:	

This is a decision on the petition, filed July 7, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. _____

Date : July 10, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Patrick A. Tyndall
Application No. :10/880,197
Filed :June 29, 2004

The above-identified application has been assigned Patent No. 7,075,420 and an issue date of July 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 July 11, 2006:

"All reference to Patent No. 7,075,420 to Patrick A. Tyndall of South Carolina for POWER CONVERSION FROM PIEZOELECTRIC SOURCE appearing in the Official Gazette of July 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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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE
SUITE 6300, SEARS TOWER
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Noh Yeal Kwak	:	
Application No. 10/880,202	:	DECISION GRANTING PETITION
Filed: June 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 29936/40280	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\880202.wpd

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Brooks
Application No. 10/880,211
Filed: June 28, 2004
Attorney Docket No. 14232-003002

This is a decision in response to the paper filed October 20, 2004, which is being treated as a petition to accord the above-identified application a filing date of June 28, 2004.

The application was filed on June 28, 2004.

On August 23, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition submits a copy of drawings from application no. 10/177,613.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that drawings were present in the Office on June 28, 2004, albeit in the file of another application, i.e., application No. 10/177,613. Therefore, on petition, the application may be accorded the requested filing date of June 28, 2004.

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

The copy of the drawings submitted with the petition will be used for examination purposes.

A petition fee of $130 will be charged to petitioner's deposit account since the instant petition was required to accord the application the requested filing date.

As a courtesy, the Office brings to petitioner's attention the existence of possible ambiguities in the sentence containing the incorporation by reference statement. The phrase, "the entire contents of which are hereby incorporated by reference" fails to clearly distinguish the identity of the "which" modified in the sentence. The verb tense, along with the fact that only two applications are listed, indicates "which" includes both applications. However, if more than two applications had been listed, problems with interpretation would exist. Petitioner may wish to ensure future claims for priority are unambiguous. Petitioner should note that an incorporation by reference statement, unlike claims for priority, does not need to be included in the first sentence of the specification.

The Office of Initial Patent Examination will further process the application with a filing date of June 28, 2004, using the application papers filed on June 28, 2004 and the copy of the drawings filed on October 20, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Peter J. Yim
Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

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OFFICE OF PETITIONS

In re Application of

Chia-Chee Kuan et al.
Application No. 10/880,222
Filed: June 28, 2004
Attorney Docket No. 529252000601

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 30, 2006.

The request is **APPROVED**.

A review of the file record indicates that Peter J. Yim of the firm Morrison & Foerster, LLP: (1) does not have power of attorney in this patent application;[1] and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys of record have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. As no assignee has properly intervened in this application, all future communications from the Office will be directed to the first signing inventor at the first copied address below. If assignee desires to be represented by counsel or to intervene and receive correspondence regarding this application, compliance with 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the address supplied in the petition.

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

A non-final rejection was mailed on March 12, 2007. Failure to respond within the extendable time period will result in the abandonment of this application.

[1] The Revocation of Power of Attorney with new Power of Attorney filed on March 26, 2007 is not acceptable since it does not comply with the provisions of 37 CFR 3.73(b).

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Chia-Chee Kuan
890 Lockhaven Drive
Los Altos, CA 94024

cc: Michael J. Mallie
Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/880,222	06/28/2004	Chia-Chee Kuan	529252000601

CONFIRMATION NO. 8344

OC000000023467725

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Date Mailed: 04/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2006.

- 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.

Kimberly Knabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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1526 SPRUCE STREET
SUITE 302
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OFFICE OF PETITIONS

In re Application of	:	
Joanna Jean Eastment et al.	:	
Application No. 10/880,237	:	DECISION ON PETITION
Filed: June 28, 2004	:	
Attorney Docket No. BLD92004007US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 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 amendment, (2) the petition fee of $1620, 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 Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)
BLD9-2004-0007-US1

First named inventor: Eastman et al,

Application No.: 10/880,237 Art Unit: 4126

Filed: 6/28/2004 Examiner: Barbara D. Squibb

Title: POWER MANAGEMENT OF A PRINTER SYSTEM

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☒ Other than small entity - fee $ 1,620.00 (37 CFR 1.17(m)).

2. Reply and/or fee

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

B. The issue fee and publication fee (if applicable) of $ _____.
☐ 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. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/Sean J. Varley/	October 14, 2008
Signature	Date
Sean J. Varley	62,397
Typed or printed name	Registration Number, if applicable
1526 Spruce Street, Suite 302	303-786-7687
Address	Telephone Number
Boulder, Colorado 80302	
Address	

Enclosures:
- [x] Fee Payment
- [x] 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 as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

COPY MAILED

DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Shui Yuan Qin, et. al.	:	
Application No. 10/880,287	:	DECISION ON PETITION
Filed: June 28, 2004	:	
Attorney Docket No. US4490	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed, January 9, 2008, which set a shortened statutory period for reply of one month or thirty days or whichever is longer. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned February 9, 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 Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
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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INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence Jacobowitz, et. al.	:	
Application No. 10/880,289	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. FIS920020065US2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 15, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed February 7, 2006. A Notice of Abandonment was mailed on August 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2874, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAY 13 2005

ALBERT O COTA
5460 WHITE OAK AVE
SUITE A-331
ENCINO CA 91316

In re Application	:	
Arthur L. Grebelsky	:	
Serial No.: 10/880,310	:	DECISION ON PETITION
Filed: June 30, 2004	:	
For: Articulating Exercise Bicycle Platform	:	

This is in response to applicants' petition filed December 21, 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 Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-3750 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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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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JUN 2 2005

PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

In re application of Bruce E. Thomas et al Application No. 10/880,319 Filed: June 29, 2004 For: DOOR WITH VARIABLE LENGTH SCREEN	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R §1.102(d) filed June 29, 2004 to make the above-identified application special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement. A subsequent petition to withdraw the request to make special under 37 C.F.R §1.102(d) was filed November 1, 2004.

In view of the request to withdraw the petition to make special, the petition to make special is **DISMISSED AS MOOT.**

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

KJD/jwk: 5/24/05

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BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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FEB 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Braslawsky et al.	:	
Application No. 10/880,320	:	ON APPLICATION FOR
Filed: June 28, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. BGG-A019RCE	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b) filed September 2, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 36 days, not 0 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. 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 part on the basis that the period of applicant delay should be reduced by 82 days.

The application for patent term adjustment is **GRANTED to the extent indicated**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 0 days (208 days of PTO delay and 386 days of applicant delay). A copy of the updated PALM screen, showing the correct determination, is enclosed.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3

years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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

With respect to applicant's assertion that the period of applicant delay should be reduced by 82 days, applicant is correct. On February 13, 2009, a response was filed to a non-final Office action. On May 7, 2009, a supplemental response was filed, 82 days after the filing of the initial response.

Applicant asserts that the supplemental response was expressly request by the examiner, and has supplied a copy of a facsimile cover sheet and proposed changes sent by the examiner on April 27, 2009, requesting a supplemental response.

In view thereof, applicant has provided convincing evidence that the supplemental response was expressly requested by the examiner. Accordingly, the 82 day period of applicant delay is not warranted and will be removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 0 days (208 days of Office delay less 386 (468 - 82) days of applicant delay).

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

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

---

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.

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

Christina L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

Encl: Copy of revised PALM screen

Day : Thursday
Date: 1/28/2010

PALM INTRANET

Time: 16:09:33

PTA Calculations for Application: 10/880320			
Application Filing Date:	06/28/2004	PTO Delay (PTO):	208
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	468
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	01/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	82		
75	06/02/2009	MAIL NOTICE OF ALLOWANCE			
74	06/01/2009	ISSUE REVISION COMPLETED			
73	06/01/2009	DOCUMENT VERIFICATION			
72	06/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	06/01/2009	EXAMINER'S AMENDMENT COMMUNICATION			
70	05/25/2009	NOTICE OF ALLOWABILITY			
68	05/07/2009	DATE FORWARDED TO EXAMINER			
67	05/06/2009	SUPPLEMENTAL RESPONSE		82	63
64	02/26/2009	DATE FORWARDED TO EXAMINER			
63	02/13/2009	RESPONSE AFTER NON-FINAL ACTION			
62	11/13/2008	MAIL NON-FINAL REJECTION			
61	11/08/2008	NON-FINAL REJECTION			
57	08/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	08/27/2008	REFERENCE CAPTURE ON IDS			
55	08/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	51
54	09/08/2008	DATE FORWARDED TO EXAMINER			
53	08/27/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	09/08/2008	DATE FORWARDED TO EXAMINER			
51	08/27/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
50	09/08/2008	DISPOSAL FOR A RCE / CPA / R129			
49	08/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

48	08/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	08/27/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	01/29/2008	NOTICE OF APPEAL FILED		90	40
45	01/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	11/13/2007	CORRESPONDENCE ADDRESS CHANGE			
41	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
40	07/31/2007	MAIL FINAL REJECTION (PTOL - 326)			
39	07/23/2007	FINAL REJECTION			
37	05/14/2007	DATE FORWARDED TO EXAMINER			
36	04/26/2007	RESPONSE AFTER NON-FINAL ACTION		90	34
35	04/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	10/26/2006	MAIL NON-FINAL REJECTION			
33	10/16/2006	NON-FINAL REJECTION			
32	09/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	09/18/2006	REFERENCE CAPTURE ON IDS			
30.7	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		38	26
30	09/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	08/22/2006	DATE FORWARDED TO EXAMINER			
26	08/11/2006	RESPONSE TO ELECTION / RESTRICTION FILED		48	24
25	08/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	03/24/2006	MAIL RESTRICTION REQUIREMENT	208		-1
23	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	01/23/2006	REFERENCE CAPTURE ON IDS			
21.7	01/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	01/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	04/20/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

19	03/18/2005	PRELIMINARY AMENDMENT			
18	10/26/2004	REFERENCE CAPTURE ON IDS			
17.7	10/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/18/2005	APPLICATION RETURN FROM OIPE			
14	04/19/2005	APPLICATION IS NOW COMPLETE			
13	04/18/2005	APPLICATION RETURN TO OIPE			
12	04/18/2005	APPLICATION DISPATCHED FROM OIPE			
11	04/18/2005	APPLICATION IS NOW COMPLETE			
10	03/18/2005	ADDITIONAL APPLICATION FILING FEES		120	5
9	03/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	03/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	03/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	04/01/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	08/18/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/06/2004	CLEARED BY OIPE CSR			
3	08/06/2004	CASE CLASSIFIED BY OIPE			
2	07/21/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/28/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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Hahn Loeser & Parks, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

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JUL 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Hisamoto Moriguchi et al.	:	
Application No. 10/880,329	:	DECISION ON PETITION
Filed: June 28, 2004	:	TO WITHDRAW
Attorney Docket No. 200512.00019	:	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 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw.

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

The Revocation of Power of Attorney filed on April 8, 2005 was improperly accepted by the Office on April 25, 2005. Compliance with 37 CFR 3.73(b) has not been met. A proper statement under 37 CFR 3.73(b) must be submitted in order for the power of attorney to be acceptable.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hisamoto Moriguchi
11457 Mayfield Road 1257
Cleveland, OH 44106

cc: Case Western Reserve University
10900 Euclid Avenue
Cleveland, OH 44106

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
10/880,329	06/28/2004	Hisamoto Moriguchi	200512.00019

CONFIRMATION NO. 6134

POWER OF ATTORNEY NOTICE

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

OC000000030917520

Date Mailed: 07/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/16/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 07/16/2010

Applicant	: Martti Mela	: DECISION ON REQUEST FOR
Patent Number	: 7656847	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/880,363	: 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 **836** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HOGAN & HARTSON, L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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JUN 1 9 2008

OFFICE OF PETITIONS

In re Patent No.	:	
7,125,107	:	
Application No. 10/880,364	:	DECISION GRANTING PETITION
Filing Date: June 28, 2004	:	
Issue Date: October 24, 2006	:	
Attorney Docket No. 81872.0066	:	

This is a decision on the petition under 37 CFR 1.182, filed January 28, 2008, and in supplement on February 19, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the instant application matured into U.S. Patent No. 7,125,107 on October 24, 2006. Petitioner contends, however, that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was not received[1]. The Office of Data Management is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

[1] The petition fee of $400.00 will not be refunded because petitioner has not established that the Letter of Patent was not received. This is normally established by a statement that file records were searched and the Letter of Patent was not found and by the submission of the docket records to substantiate the alleged non-receipt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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SEP 15 2008

In re Application of	:	
Menzo Wentink.	:	
Application No. 10/880,367	:	ON PETITION
Filed: July 29, 2008	:	
Attorney Docket No. **56162.000518**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the 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)(3) is **DISMISSED**.

The petition under 37 CFR 1.78(a)(6) is also **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 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 the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii) and 37 CFR 1.78(a)(2)(ii).

The petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The 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)(3) and 37 CFR 1.78(a)(6) lacks item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference a prior-filed application 60/388569 that was not incorporated by reference on when the non-provisional application 10/880,367 was first filed. 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 USC § 119 and 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 USC § 119 and 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 if said statement was include on filing. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). The amendment submitted on renewed petition cannot incorporate by reference provisional application 60/388,569 because it was not incorporated by reference on filing of the application.

Before the petition under 37 CFR § 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet signed in compliance with 37 CFR § 1.33(b) 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: 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.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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DEC 0 8 2008

In re Application of :
Menzo Wentink. :
Application No. 10/880,367 : ON PETITION
Filed: July 29, 2008 :
Attorney Docket No. **56162.000518**

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 9, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a renewed petition under 37 CFR 1.78(a)(6) to accept the 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)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

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

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional

application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

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

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted.

2. the surcharge set forth in 1.17(t), and

3. a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 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 nonprovisional application and provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 2600, Art Unit 2611 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/880,367	06/30/2004	2611	1294	56162.000518	31	5

CONFIRMATION NO. 6490

CORRECTED FILING RECEIPT

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

OC000000033385119

Date Mailed: 12/01/2008

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

Applicant(s)

Menzo Wentink, Utrecht, NETHERLANDS;

Assignment For Published Patent Application

Globespan Virata Incorporated

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/515,701 10/31/2003
and is a CIP of 10/353,391 01/29/2003 PAT 6,791,962
which claims benefit of 60/388,569 06/12/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/880,367**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Direct link relay in a wireless network

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAYER BROWN ROWE & MAW LLP
1909 K STREET NW
WASHINGTON, DC 20006

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FEB 03 2006

OFFICE OF PETITIONS

In re Application of	:
Kee-Jeung Lee et al	:
Application No. 10/880,372	: DECISION GRANTING PETITION
Filed: June 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123037-05004975	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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) 272-3218.

This matter 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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER F. CORLESS
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Durant et al.	:	
Application No. 10/880,378	:	ON PETITION
Filed: 28 June, 2004	:	
Atty Docket No. 46594-C (47843)	:	

This is a decision on the petition filed on 17 November, 2004, requesting that the above-identified application be accorded a filing date of 28 June, 2004, with Page 6 of the specification as a part of the original disclosure.

The petition is granted.

On 28 June, 2004, the application was filed.

Accordingly, on 17 September, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 28 June, 2004, but that Page 6 of the specification (description and claims) appeared to have been omitted. The statutory basic filing fee, additional claim fees, and a surcharge for their late filing was also required.

In response, on 17 November, 2004, the present petition, fees, and Page 6 of the specification were filed. Petitioners argue that Page 6 of the specification was filed with the other application papers on 28 June, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 28 June, 2004, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 40 pages of specification, 9 pages of claims, and 1 page of abstract. Petitioners request that the application, including Page 6 of the specification, be accorded a filing date of 28 June, 2004.

A review of the record reveals that no Page 6 of the specification have been located among the application papers received on 28 June, 2004. However, the evidence is convincing that the application papers deposited on 28 June, 2004, included Page 6 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 6 of the specification, is entitled to a filing date of 28 June, 2004.

The "Notice" mailed on 17 September, 2004, is vacated to the extent that it stated that Page 6 of the specification appeared to have been omitted.

Petitioners should note, when preparing future filings, that the postcard receipt should itemize the total number of pages of specification (including written description, claims, and abstract) as a single figure.[1]

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 04-1105.

The application will be processed with the copy of Page 6 of the specification supplied on 17 November, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 28 June, 2004, using the application papers filed on that date, and the copy of Page 6 of the specification supplied with the present petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] MPEP 503.

10/880,389

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/27/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6864647 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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.

Virginia Tolbert

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:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2834
Art Unit

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JJGJR.: 10-07

Paper No: __

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
Rodriguez, et al. :
Application No. 10/880,406 : DECISION
Filing Date: 28 June, 2004 :
Attorney Docket No.: TI-33415 :

This is a decision on the petition filed on 24 July, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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]

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

[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.**

Fees Due mailed on 5 December, 2005, with reply due under a non-extendable deadline on or before Monday, 6 March, 2006;

- the instant application went abandoned by operation of law after midnight 6 March, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 24 July, 2006, Petitioner filed the instant petition (with fee), reply in the form of the fees due, and made the statement of unintentional delay;
- the Office mailed the Notice of Abandonment on 2 August, 2006.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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).

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;

(2) Returning papers;

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.[5] 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).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt,[8] 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

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

[5] 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).

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

[7] 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.

[8] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) 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] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

In re Application of
Flynn
Application No. 10/880,417
Filed: June 28, 2004
For: **AIR LOCK COVER VENT FOR TELECOMMUNICATIONS EQUIPMENT**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on April 1, 2005.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Attorneys/Agents requesting the withdraw are withdrawn.

Accordingly, the request is **GRANTED**.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: NORTH, WEBER & BAUGH LLP
2479 E. BAYSHORE ROAD
SUITE 707
PALO ALTO, CA 94303

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Commissioner for Patents
United States Patent and Trademark Office
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NORTH WEBER & BAUGH LLP
2479 E. BAYSHORE RD., SUITE 707
PALO ALTO, CA 94303

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JUN 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael Patrick Flynn	:	
Application No. 10/880,417	:	DECISION ON PETITION
Filed: June 28, 2004	:	TO WITHDRAW
Attorney Docket No. 20003-1071	:	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 20, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, application has been transferred to the assignee, do not appear to 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 Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael P. Flynn
1880 East St. Andrews Place
Santa Ana, CA 92705

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North Weber & Baugh LLP
2479 E. Bayshore Road
Suite 707
Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Michael P. FLYNN	:	
Application No. 10/880,423	:	DECISION ON PETITION
Filed: June 28, 2004	:	TO WITHDRAW
Attorney Docket No. 20003-1073	:	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 20, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, application transferred to 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael P. Flynn
1880 East St. Andrews Place
Santa Ana, CA 92705

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091109

DATE : November 18, 2009

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: 10/880,444

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Tracy Vivlemore/ (acting) Art Unit: 1635

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of :
Giroux, et al. :
Application No. 10/880,459 : ON APPLICATION FOR
Filed: July 1, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-3844 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705, filed June 30, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand six hundred sixty-two (1662) days[1], not seven hundred twenty-five (725) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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.

[1] This calculation is based on a projected issuance date of October 12, 2010.

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 is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

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.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

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

In re Application of :
Gisle Bjontegaard :
Application No. 10/880,460 : DECISION ON PETITION
Filed: July 1, 2004 : TO MAKE SPECIAL
For: :

NOISE REDUCTION METHOD, APPARATUS, SYSTEM, AND COMPUTER PROGRAM PRODUCT

This is a decision on the petition filed May 10, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. This decision is also responsive to the copy of the international search report filed May 26, 2006.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of: KEZUKA, et al.
Application No. 10/880,503
Filed: July 01, 2004
For: STORAGE CONTROL SYSTEM AND METHOD

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

This is a response to the petition filed 15 April 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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.

The petition filed 03 February 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. 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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Technology Center 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of: KEZUKA, et al.
Application No. 10/880,503
Filed: July 01, 2004
For: STORAGE CONTROL SYSTEM AND METHOD

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 22 June 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 15 April 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 22 June 2005 corrects the deficiency noted in the original decision. The combined submissions meet 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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Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED
AUG 23 2005
Technology Center 2100

In re Application of:
SHITOMI et al
Application No. 10/880,506
Filed: July 01, 2004
For: STORAGE SYSTEM STORING WORM FILE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on May 27, 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.

> 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 of May 27, 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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OLDS, MAIER & RICHARDSON
1000 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Wood, et al. :
Application No. 10/880,521 : ON PETITION
Filed: July 1, 2004 :
Attorney Docket No. IMED-0020-US :
For: NASAL INTERFACE AND SYSTEM
INCLUDING VENTILATION INSERT

This is a decision on the petition under 37 CFR 1.137(b), filed on April 18, 2007 to revive the above-identified application.

As a preliminary matter, 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 became abandoned for failure to properly respond to the final Office action mailed July 31, 2006, which set an extendable three month period for reply. Applicants submitted an amendment after final on October 11, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the December 5, 2006 Advisory action. Accordingly, this application became abandoned on November 1, 2006.

Applicants have submitted a RCE and required $395.00 fee and a request to use the previously filed amendment as the submission in reply to the July 31, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 31, 2006 final Office action, and the $750.00 petition fee.

Therefore, the petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3771 for consideration of the RCE filed on April 18, 2007.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: TIMOTHY J. MAIER
MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/20/06

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/880535** Patent No **7017904**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

EUGENE KIM
SUPERVISORY PATENT EXAMINER — **SPE**

3711 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300
Washington D.C. 20044-4300

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Franklin	:	
Application No. 10/880,595	:	DECISION ON PETITION
Filed: April 6, 2005	:	TO WITHDRAW
Attorney Docket No. 101885.56535D1	:	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 14, 2006.

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

A review of the file record indicates that the power of attorney to John W. Ryan and the attorney(s) and/or agent(s) associated with Customer Number 23911 has been revoked by the assignee of the patent application on April 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Knoble, Yoshida & Dunleavy
Eight Penn Center
1628 John F. Kennedy Blvd.
Suite 1350
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
1628 JOHN F KENNEDY BLVD
SUITE 1350
PHILADELPHIA, PA 19103

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NOV 25 2008

In re Application of	:	
Richard L. Franklin	:	
Application No. 10/880,595	:	DECISION ON PETITION
Filed: April 6, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARC-1001USDIV2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **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 amendment filed on petition filed August 20, 2008 is not acceptable. The benefit claim from application No. 08/338,501 to international application No. PCT/SE93/00455 is inappropriate. Office records show that application No.

08/338,501 is a national stage entry of International Application No. PCT/SE93/00455. Thus, the international application is not a prior application. A national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). **See MPEP § 1893.03(a)**. Accordingly, it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage. **See MPEP 1893.03(c)**.

Before this petition can be granted an acceptable amendment in compliance with 37 CFR 1.121 and 1.33(b) or a supplemental application data sheet executed in compliance with 37 CFR 1.33(b) is required. The new amendment may state "application No. 08/338,501, which is the U.S. National Stage of International Application PCT/SE93/00455."

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 April M. Wise at (571) 272-1642.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
1628 JOHN F KENNEDY BLVD
SUITE 1350
PHILADELPHIA, PA 19103

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:
Richard L. Franklin	:
Application No. 10/880,595	: DECISION ON PETITION
Filed: April 6, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ARC-1001USDIV2	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1648 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/880,595	04/06/2005	1648	1580	ARC-1001USDIV2	24	2

CONFIRMATION NO. 3225

CORRECTED FILING RECEIPT

21302
KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

OC000000035734986

Date Mailed: 04/30/2009

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

Applicant(s)

Richard L. Franklin, London, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 21302

Domestic Priority data as claimed by applicant

This application is a DIV of 10/750,184 12/31/2003
which is a CON of 09/549,642 04/14/2000 ABN
which is a DIV of 09/303,375 04/30/1999 ABN
which is a DIV of 08/600,273 02/08/1996 PAT 5,958,406
which is a CIP of 08/486,820 06/07/1995 PAT 6,030,612
which is a CIP of 08/385,540 02/08/1995 PAT 5,945,102
which is a CIP of 08/338,501 11/22/1994 ABN

Foreign Applications

SWEDEN 9201628-6 05/22/1992
SWEDEN PCT/SE93/00455 05/21/1993
SWEDEN SE9201628-6 05/22/1992

If Required, Foreign Filing License Granted: 06/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/880,595**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Treating viral infections with krill enzymes

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 0 2 2006

OFFICE OF PETITIONS

Applicant: Rondeau
Appl. No.: 10/880,615
Filing Date: July 1, 2004
U.S. Patent No.: 7,087,096
Issue Date: August 8, 2006
Title: COMPOSITION FOR DYEING KERATINOUS FIBRES WITH A CATIONIC DIRECT DYE AND A QUATERNARY AMMONIUM SALT
Attorney Docket No.: 05725.0577-01
Pub. No.: US 2005/0071933 A1
Pub. Date: April 7, 2005

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on June 7, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 7,087,096 on August 8, 2006, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/12/06

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/880615** Patent No **7087096**

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

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

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

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: Changes in claim 43, column 87, line 10, do not apply because r is a part of the formula $NR_{22}(X^{-})_r$. Thanks Examiner Ellilo 10/19/06

Douglas McGinty 1 — **SPE**

1751 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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William A. Blake
Jones, Tullar & Cooper, P.C.
2266 Eads Station
P.O. Box 2266
Arlington, VA 22202

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Van Dyk	: DECISION REFUSING STATUS
Application No. 10/880,620	: UNDER 37 CFR 1.47(b)
Filed: July 1, 2004	:
Atty. Dkt. No.: P.20309/WAB	:
For: METHOD OF AND APPARATUS	:
FOR BREAKING ROCK	:

This decision is in response to the petition under 37 CFR 1.47(b) filed February 17, 2005.

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

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed July 1, 2004 without an executed oath or declaration and naming Andrew Van Dyk as sole inventor. Accordingly, the Notice mailed August 23, 2004 required, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy item (1) set forth above. Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration), and thereafter refused to execute an oath or declaration.

The statement of facts submitted by Monty Rademeyer indicates that on numerous occasions a declaration has been forwarded to the inventor along with repeated requests for execution of the declaration. The statement of facts also indicates that the inventor has been contacted telephonically on a number of occasions, but the inventor has "cut each phone call short." The petition includes copies of letters and email sent to the inventor with requests to execute the declaration.

Neither the statement of facts nor the copies of the letters and email suggest that the inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) for the instant application, and that thereafter the inventor refused to execute the declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of the non-signing inventor. A copy of the application papers must be presented to the inventor at the inventor's last known address. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Statements based on hearsay, will not normally be accepted. Petitioners may elect to include copies of dated cover letters and, if available, copies of mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by an inventor should likewise be submitted. Petitioners' attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William A. Blake
Jones, Tullar & Cooper, P.C.
2266 Eads Station
P.O. Box 2266
Arlington, VA 22202

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:
Van Dyke	: DECISION GRANTING STATUS
Application No. 10/880,620	: UNDER 37 CFR 1.47(b)
Filed: July 1, 2004	:
Atty. Dkt. No.: P.20309/WAB	:
For: METHOD OF AND APPARATUS	:
FOR BREAKING ROCK	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed June 30, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Andre Van Dyke has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDRE VAN DYKE
223 Elands Street
Wierda Park, Centurion
Pretoria, 0002
South Africa

COPY MAILED

AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Van Dyke	:	
Application No. 10/880,620	:	LETTER
Filed: July 1, 2004	:	
Atty. Dkt. No.: P.20309/WAB	:	
For: METHOD OF AND APPARATUS	:	
FOR BREAKING ROCK	:	

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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William A. Blake
Jones, Tullar & Cooper, P.C.
2266 Eads Station
P.O. Box 2266
Arlington, VA 22202

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Van Dyk	: DECISION REFUSING STATUS
Application No. 10/880,621	: UNDER 37 CFR 1.47(b)
Filed: July 1, 2004	:
Atty. Dkt. No.: P.20301/WAB	:
For: EXPLOSIVE FOR ROCK	:
BREAKING	:

This decision is in response to the petition under 37 CFR 1.47(b) filed February 17, 2005.

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

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed July 1, 2004 without an executed oath or declaration and naming Andrew Van Dyk as sole inventor. Accordingly, the Notice mailed August 18, 2004 required, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy item (1) set forth above. Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration), and thereafter refused to execute an oath or declaration.

The statement of facts submitted by Monty Rademeyer indicates that on numerous occasions a declaration has been forwarded to the inventor along with repeated requests for execution of the declaration. The statement of facts also indicates that the inventor has been contacted telephonically on a number of occasions, but the inventor has "cut each phone call short." The petition includes copies of letters and email sent to the inventor with requests to execute the declaration.

Neither the statement of facts nor the copies of the letters and email suggest that the inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) for the instant application, and that thereafter the inventor refused to execute the declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of the non-signing inventor. A copy of the application papers must be presented to the inventor at the inventor's last known address. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Statements based on hearsay, will not normally be accepted. Petitioners may elect to include copies of dated cover letters and, if available, copies of mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by an inventor should likewise be submitted. Petitioners' attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William A. Blake
Jones, Tullar & Cooper, P.C.
2266 Eads Station
P.O. Box 2266
Arlington, VA 22202

COPY MAILED
AUG 12 2005
OFFICE OF PETITIONS

In re Application of	:
Van Dyke	: DECISION GRANTING STATUS
Application No. 10/880,621	: UNDER 37 CFR 1.47(b)
Filed: July 1, 2004	:
Atty. Dkt. No.: P.20301/WAB	:
For: EXPLOSIVE FOR ROCK	:
BREAKING	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Andre Van Dyke has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDRE VAN DYKE
223 Elands Street
Wierda Park, Centurion
Pretoria, 0002
South Africa

In re Application of	:	
Van Dyke	:	
Application No. 10/880,621	: LETTER	
Filed: July 1, 2004	:	
Atty. Dkt. No.: P.20301/WAB	:	
For: EXPLOSIVE FOR ROCK	:	
BREAKING	:	

COPY MAILED

AUG 12 2005

OFFICE OF PETITIONS

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSHA LIANG LLP
1221 McKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

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AUG 0 2 2006
OFFICE OF PETITIONS

In re Application of	:
Hajime Maruta et al	:
Application No. 10/880,623	: DECISION GRANTING PETITION
Filed: June 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02008/178001	:

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 May 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) 272-3218.

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\880623.wpd

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

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236

In re Application of	:	
Edward J. Martens III	:	
Application No. 10/880,634	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. J-4023	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 1, 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 12, 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 should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Richard P. Ratowsky	: DECISION ON REQUEST FOR
Patent Number	: 7649916	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,655	: 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 **181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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
10/880,656	06/29/2004	2856	529	144-US	11	36	3

CONFIRMATION NO. 9807

CORRECTED FILING RECEIPT

OC000000014038615

32763
NANOSTREAM, INC.
580 SIERRA MADRE VILLA AVE.
PASADENA, CA 91107-2928

Date Mailed: 10/07/2004

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

Applicant(s)

Christoph D. Karp, Pasadena, CA;
Marci Pezzuto, Altadena, CA;
Steven E. Hobbs, West Hills, CA;

Assignment For Published Patent Application

Nanostream, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **32763**.

Domestic Priority data as claimed by applicant

Foreign Applications

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

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/880,656

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Sealing interface for microfluidic device

Preliminary Class

073

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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George B. F. Yee
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED
JUL 28 2005
Technology Center 2100

In re Application of: Kano
Application No. 10/880,661
Filed: 29 June 2004
For: METHOD FOR CONTROLLING STORAGE POLICY ACCORDING TO VOLUME ACTIVITY

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

This is a decision on the petition filed 6 June 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

GO

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/23/2010

Applicant	: Benyu Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7584100	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/880,662	: 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 **1371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: David A. Grabelsky	: DECISION ON REQUEST FOR
Patent Number	: 7613170	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,686	: 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 **1190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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Patent Department
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

MAILED
SEP 1 4 2005
Technology Center 2100

In re Application of:
Chade-Meng TAN, et al.
Application No. 10/880,697
Filed: June 30, 2004
For: METHODS AND SYSTEMS FOR TRIGGERING ACTIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed March 10, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on May 5, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Fenwick & West as the attorneys of record of the instant application. The Power of Attorney of May 5, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Fenwick & West.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Yen-Fu Chen	: DECISION ON REQUEST FOR
Patent Number	: 7631042	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,728	: 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 **1295** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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
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1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Yen-Fu Chen	: DECISION ON REQUEST FOR
Patent Number	: 7596603	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,729	: 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 **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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.

31 MAR 2005

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

In re Application of	:	
LEKO	:	
Application No.: 10/880,749	:	DECISION
Attorney Docket No.: 310297-00053	:	
For: COMPOSITION FOR PROTECTION AND	:	
REGENERATION OF STRUCTURE AND FUNCTION	:	
OF THE LIVER	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 28 June 2004.

BACKGROUND

On 30 August 2002, applicants filed international application PCT/HR02/00038 which designated the U.S. and claimed a priority date of 25 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 April 2004 (25 April 2004 being a Sunday).

On 28 June 2004, applicants filed, *inter alia*, a transmittal letter requesting filing of a continuation of international application number PCT/HR02/00038, an assertion of small entity status, a specification, claims, and abstract.

On 28 June 2004, applicants also filed a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(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 was unintentional.

As to item (1), the filing of the present continuing application under 35 U.S.C. 111(a) on 28 June 2004 is accepted as an appropriate response under 37 CFR 1.137(b).

As to item (2), the petition fee has been charged to Deposit Account 50-1290 pursuant to the Deposit Account authorization filed 07 September 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) to revive international application PCT/HR02/00038 is hereby **GRANTED** as to the National stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/880,749.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Richard Greenfield	: DECISION ON REQUEST FOR
Patent Number	: 7668200	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,769	: 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 **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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C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
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OXNARD, CA 93036

MAIL

MAY 22 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Kang, Sing Bing, *et al*
Serial No.: 10/880,774
Filed: June 28, 2004
For: **INTERACTIVE VIEWPOINT VIDEO SYSTEM AND PROCESS**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) filed September 3, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figure 2, 6(a), 6(b), 6(c) and 7 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of	:	
Piotrowski et al.	:	
Application No. 10/880781	:	DECISION ON PETITION
Filed: 06/30/2004	:	
Attorney Docket No. PC27106C	:	

This is a decision on the "PETITION TO THE DIRECTOR UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed on 18 May, 2007.

The petition is **GRANTED**.

On 21 June, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 22 September, 2006. Notice of Abandonment was mailed on 19 January, 2007.

In the petition, applicants assert that the practitioner did not receive the final Office action. Specifically, the practitioner asserts that the Office action was returned to the USPTO as undeliverable.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing

required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by registered practitioner Eileen M. Ebel attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's docket record is supplied with the petition.

A review of the record indicates that the USPTO mailed the final Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on 11 July, 2006. For this reason, the practitioner did not receive the final Office action of 21 June, 2006.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 1600 technical support staff for remailing of the final Office action mailed on 21 June, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Antero K.P. Taivalsaari	: DECISION ON REQUEST FOR
Patent Number	: 7603665	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/880,786	: 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 **1466** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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RICHARD L. MILLER
12 PARKSIDE DRIVE
DIX HILLS, NY 11746-4879

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AUG 14 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Donna Helton :
Application No. 10/880,792 :
Filed: June 30, 2004 :
Attorney Docket No.: HELD13A :

This is a decision on the petition filed March 16, 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 June 29, 2005. 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 September 30, 2005. Accordingly, a Notice of Abandonment was mailed February 10, 2006.

This matter is being referred to Technology Center 3634 for appropriate action on the amendment filed March 16, 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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Florham Park NJ 07932

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In re Application of	:	
Eric Perrier, et al.	:	
Application No. 10/880,810	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 5264	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action, mailed July 30, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 31, 2008. The Notice of Abandonment was mailed June 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Scott L. Applebaum**
130 Woodbury Road
Woodbury, NY 11797

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LAW OFFICES OF IRA M. SIEGEL
Suite 970
433 N. Camden Drive
Beverly Hills, CA 90210

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OFFICE OF PETITIONS

In re Application of
RUSSELL MCGRANE
Application No. 10/880,821
Filed: June 29, 2004
Attorney Docket No. 04020

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 25, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 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 an executed oath or declaration and surcharge set forth in the Notice; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay have been received. Accordingly, the executed declaration 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 petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

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

Amelia Au
Petitions Examiner
Office of Petitions

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THOMAS R. MARSH
MARSH FISCHMANN & BREYFOGLE, LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA CO 80014

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Russell MCGRANE	:	
Application No. 10/880,821	:	DECISION ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. **04020**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 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 January 03, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 03, 2006. Accordingly, the date of abandonment of this application is January 04, 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. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

The power attorney filed with the petition has been accepted.

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 processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **RUSSELL MCGRANE**
10368 W. CENTENNIAL ROAD
LITTLETON, CO 80127

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor: Russell McGrane

Application No.: 10/880,821 Art Unit: 2853

Filed: 06/29/2004 Examiner: Martin, Laura E.

Title: METHOD AND SYSTEM FOR EFFICIENTLY PRINTING AND SORTING MULTIPLE ORDERS OF TRANSACTION

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1,540.00 (37 CFR 1.17(m))

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

B. The issue fee and publication fee (if applicable) of $ 1,700.00.
☐ has been paid previously on _____.
☑ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	4/23/08 Date
Russell McGrane Typed or printed name	Registration Number, if applicable
10368 W. Centennial Road Address	303-345-2420 Telephone Number
Littleton, CO 80127 Address	

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

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 10880821 **Filing Dt:** 06/29/2004 **Patent #:** NONE **Issue Dt:**

PCT #: NONE **Publication #:** US20060087542 **Pub Dt:** 04/27/2006

Inventor: Russell McGrane

Title: METHOD AND SYSTEM FOR EFFICIENTLY PRINTING AND SORTING MULTIPLE ORDERS OF TRANSACTION CARDS

Assignment: 1

Reel/Frame:	Received:	Recorded:	Mailed:	Pages:
020849 / 0873	04/24/2008	04/24/2008	04/24/2008	3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: MCGRANE, RUSSELL **Exec Dt:** 04/23/2008

Assignee: CPI CARD GROUP, INC.
10368 W. CENTENNIAL ROAD
LITTLETON, COLORADO 80127

Correspondent: MARSH FISCHMANN & BREYFOGLE LLP
3151 S. VAUGHN WAY
SUITE 411
AURORA, CO 80014

Search Results as of: 08/21/2008 11:12 AM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: February 22, 2007 v.2.0

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:		**Group Art Unit:**	2853
Russell McGrane		**Examiner:**	Martin, Laura E.
Serial No.:	10/880,821		
Filing Date:	06/29/2004		
Atty. Docket No:	50474-00003	**REVOCATION OF POWER OF ATTORNEY, GRANTING OF POWER OF ATTORNEY AND CHANGE IN CORRESPONDENCE ADDRESS (37 C.F.R. " 1.34, 1.36)**	
Confirmation No.:	1193		
Title:	METHOD AND SYSTEM FOR EFFICIENTLY PRINTING AND SORTING MULTIPLE ORDERS OF TRANSACTION		

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

Dear Sir or Madam:

I, Russell McGrane, Vice President of CPI Card Group, Inc. the assignee of the above-identified patent application, hereby revoke any previous Power of Attorney regarding the above-identified application.

I hereby appoint all attorneys and/or agents associated with Customer No. 25231 (MARSH FISCHMANN & BREYFOGLE LLP, 3151 South Vaughn Way, Suite 411, Aurora, Colorado 80014, telephone number (303) 338-0997), as its attorneys and agents with full powers of substitution, association and revocation to prosecute the application and related U.S. and foreign applications and to transact all business in the United States Patent and Trademark Office and all foreign and international patent offices connected therewith.

Serial No. 10/880,821
Attorney Docket No. 50474-00003

Please direct all correspondence pertaining to this application to:

Thomas R. Marsh
MARSH FISCHMANN & BREYFOGLE, LLP
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
Telephone: 303-338-0997
Facsimile: 303-338-1514

Company Name: CPI Card Group, Inc.

Date: 4/23/08

By: _____
Print Name: Russell McGrane
Title: VICE PRESIDENT

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10880821 Total Records Found: 14

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/25/2008	00000001	1	1501	$1,440.00	04/24/2008	DA 501419 Issue
04/24/2008	00014346	4	8021	$40.00	04/24/2008	ET Assig
04/24/2008	00014194	4	1453	$1,540.00	04/24/2008	ET PET
04/24/2008	00014195	4	1504	$300.00	04/24/2008	ET PuB
10/26/2005	00000009	1	2001	-$385.00	06/29/2004	OP
10/26/2005	00000010	1	2201	-$172.00	06/29/2004	OP
10/26/2005	00000011	12	9999	$557.00	10/26/2005	CK
10/26/2005	00000014	12	9999	-$557.00	10/26/2005	CK
10/26/2005	00000016	1	1051	$130.00	10/24/2005	CK
10/26/2005	00000018	1	1453	$1,500.00	10/24/2005	CK
10/26/2005	00000017	1	1201	$1,000.00	10/24/2005	CK
10/26/2005	00000015	1	1001	$790.00	10/24/2005	CK
07/06/2004	00000141	1	2001	$385.00	06/29/2004	CK
07/06/2004	00000142	1	2201	$172.00	06/29/2004	CK

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of
Steven J. Harrington
Application No. 10/880,840
Filed: June 30, 2004
Attorney Docket No.: 20021554-US-NP

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2621 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAY KAPLUN & MARCIN, LLP
Suite 702
150 Broadway
New York NY 10038

COPY MAILED

OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Lemoine et al.	:	
Application No. 10/880,845	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No.:40128/01701	:	

This is a decision on the petition filed September 14, 2004, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed August 23, 2004, be withdrawn.

The application was filed on June 30, 2004. However, on August 23, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 30, 2004 but page 28 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 28 of the specification was filed on June 30, 2004. In support, the petition is accompanied by a copy of applicants' return postcard which 20 sheets of specification, 8 sheets of claims and 1 sheet of abstract. The petition is further accompanied by a copy of page 28 of the specification (description and claims).

Applicants' postcard receipt is prima facie evidence that 20 sheets of specification, 8 sheets of claims and 1 sheet of abstract were received on June 30, 2004, but page 28 of the specification (description and claims) is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 28 of the specification (description and claims) was received on June 30, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The petition fee of $130.00 is being credited to deposit account 50-1492.

Since the page 28 of the specification (description and claims) of the original disclosure cannot be located in the Office, page 28 of the specification supplied on September 14, 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 30, 2004, using the substitute page 28 of the specification supplied on September 14, 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

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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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FEB 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Leedom et al.	:	
Application No. 10/880864	:	DECISION ON PETITION
Filed: 06/30/2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2506.2008-010	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on September 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

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.

The application is being forwarded to Technology Center AU 3728 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
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
10/880,864	06/30/2004	3728	1220	2506.2008-010	20	3

CONFIRMATION NO. 8371

CORRECTED FILING RECEIPT

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

OC000000028291788

Date Mailed: 02/20/2008

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

Applicant(s)

Marvin A. Leedom, Princeton, NJ;
John G. Aceti, Cranbury, NJ;
Walter P. Sjursen, Washington Crossing, PA;
Derek D. Mahoney, Manalapan, NJ;
John M. Margicin, Levittown, PA;
Michael H. Tardugno, Lawrenceville, NJ;
Robert R. Demers, Cranbury, NJ;
John E. Oltman, Mt. Horeb, WI;
Robert C. Maxwell, Princeton, NJ;
Frederick J. Fritz, Skillman, NJ;

Assignment For Published Patent Application

Sarnoff Corporation, Princeton, NJ

Power of Attorney: The patent practitioners associated with Customer Number 21005

Domestic Priority data as claimed by applicant

This application is a CON of 09/524,501 03/13/2000 PAT 7,010,137
which is a CIP of 09/263,593 03/05/1999 PAT 6,473,511
which is a CIP of 08/815,852 03/12/1997 PAT 5,881,159
which claims benefit of 60/013,426 03/14/1996

Foreign Applications

If Required, Foreign Filing License Granted: 08/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/880,864**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Hearing aid

Preliminary Class

206

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Zwynenburg, et al.
Application No. 10/880,866
Filed: June 30, 2004
Attorney Docket No. 2858.002

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 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, July 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2006. A Notice of Abandonment was mailed on October 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 an amendment, (2) the petition fee of $750.00, and (3) an acceptable statement of unintentional delay.

Regarding the statement of delay, the statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office..

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

This application is being referred to Technology Center AU 1772 for appropriate action by the Examiner in the normal course of business on the reply received

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

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DEC 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Anderson et al.	:	
Application No. 10/880,878	:	
Filed: June 30, 2004	:	ON APPLICATION FOR
Attorney Docket No. 27860-24	:	PATENT TERM ADJUSTMENT
Title: ELECTROCHEMICAL CELL	:	
HAVING IMPROVED RADIAL SEAL	:	

This is in response to the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)" filed October 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred seventy-two (772) days, not five hundred twenty-one (521) 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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

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].

---

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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAR 23 2010

OFFICE OF PETITIONS

Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

In re Patent No. 7,651,814	:
Anderson et al.	: DECISION ON REQUEST FOR
Issue Date: January 26, 2010	: RECONSIDERATION OF
Application No. 10/880,878	: PATENT TERM ADJUSTMENT
Filed: June 30, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 27860-24	: TO ISSUE CERTIFICATE OF
Title: ELECTROCHEMICAL CELL	: CORRECTION
HAVING IMPROVED RADIAL SEAL	:

This is a decision on the petition filed on January 27, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred seventy-two (772) 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 July 1, 2007 and ends on March 6, 2008, the day before the date that the RCE was filed, and, is 250 days. **See** 35 U.S.C. 154(b)(1)(B)(i).

As such, the patent term adjustment is 771, not 772 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from Deposit Account No. 01-2384, as authorized. No additional fees are required with respect to reconsideration of the patent term adjustment under 37 CFR 1.705(d).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred seventy-one (771)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,651,814 B2

DATED : **January 26, 2010** **DRAFT**

INVENTOR(S) : Anderson 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 521 days

Delete the phrase "by 521 days" and insert – by 771 days--

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

Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/08/2010

Applicant	: Thomas P. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7651814	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/880,878	: 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 **1021** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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: P. VO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/15/07

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/880,899 Patent No.: 7043838

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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Rathore Osman et al	:	
Application No. 10/880,941	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. VTN 5056	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 mailed August 19, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 20, 2004.

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

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

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-5-06 March 30, 2007

Paper No.: _____

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No. 10/880954 patent No.: 7,102,398

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Errors for corrections are inadvertent typographical errors; therefore, all changes are approved. MN

Robert Pascal
Supervisory Patent Examiner
Technology Center 2800

SPE

2816
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

JOHNSON & ASSOCIATES
PO BOX 90698
AUSTIN TX 78709-0698

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Susanne A. Paul et al. :
Application No. 10/880,964 :
Filed: June 30, 2004 :
Attorney Docket No.: SIL.P0047 :
Title: PARALLEL POWER AMPLIFIER :
AND ASSOCIATED METHODS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on June 20, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 12, 2005, 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 13, 2006. A notice of abandonment was mailed on April 18, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice,

the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that an amendment was filed on February 13, 2006[1], along with a one-month extension of time. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated February 13, 2006.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner has further included a copy of his postcard receipt, which contains a date stamp of February 16, 2006.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing, provided an additional copy of the previously submitted correspondence, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

It is further noted that Office records reflect that a $120 fee associated with the filing of a petition for a one-month extension of time was received in the Office on February 16, 2006.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

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

---

1 It is noted that February 12, 2006 fell on a Sunday.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition 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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OFFICE OF PETITIONS

SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY, PC
P/O/ BOX 770/CHURCH STREET STATION
NEW YORK, NY 10008-0770

In re Application of	:	
OLSON, et al.	:	
Application No. 10/880,965	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. **SUN041215**	:	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 18, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **SUN MICROSYSTEMS, INC. c/o DARBY & DARBY, PC** has been revoked by the assignee of the patent application on July 2, 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: **OSHA LIANG LLP/SUN**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY, PC
P/O/ BOX 770/CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
GROHOSKI, et al.	:	
Application No. 10/880,985	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. **20910/0205439-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 18, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **SUN MICROSYSTEMS, INC. C/O DARBY & DARBY, PC** has been revoked by the assignee of the patent application on July 2, 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: **OSHA LIANG LLP/SUN**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 06/01/2010

Applicant	: Moinul H. Khan	: DECISION ON REQUEST FOR
Patent Number	: 7636858	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/881,005	: 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 **1485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3244

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In re Application of	:	
Pokhil et al.	:	
Application No. 10/881,015	:	DECISION ON PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. S01.12-1032	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 4, 2008, 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 30, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/485,654, which was filed on July 9, 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.

After review of the amendment submitted with the instant petition, the examiner has determined that the amendment will not be entered. Accordingly, the claim for priority will not be entered without the submission of a Request for Continued Examination (RCE) on renewed petition.

Further, 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. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior 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), 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, and an RCE 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 Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Pokhil et al. :
Application No. 10/881,015 : DECISION ON PETITION
Filed: June 30, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. S01.12-1032 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 22, 2009, 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 **GRANTED.**

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

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

This pending nonprovisional application was filed on June 30, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/485,654, which was filed on July 9, 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.

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

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2627 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/881,015	06/30/2004	2627	1062	S01.12-1032	29	3

CONFIRMATION NO. 9621

CORRECTED FILING RECEIPT

OC000000035100999

27365
SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Date Mailed: 03/20/2009

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

Applicant(s)

Taras Grigoryevich Pokhil, Arden Hills, MN;
Nurul Amin, Woodbury, MN;
Steven Paul Bozeman, Savage, MN;
Steven Albert Kalderon, Minneapolis, MN;
Andrzej Adam Stankiewicz, Edina, MN;
Ned Tabat, Chanhassen, MN;
Pu-Ling Lu, Rosemount, MN;
Johannes Van Ek, Minnetonka, MN;
Janusz Jozef Nowak, Mahopac, NY;
Patrick Joseph Ryan, Saint Paul, MN;

Assignment For Published Patent Application

Seagate Technology LLC, Scotts Valley, CA

Power of Attorney: The patent practitioners associated with Customer Number 27365

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/485,654 07/09/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/881,015**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Recording head for reducing side track erasure

Preliminary Class

360

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.

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

KAMMER BROWNING PLLC
7700 BROADWAY, SUITE 202
SAN ANTONIO, TX 78209

In re Patent No. 6,983,496	:	
Issue Date: January 10, 2006	:	
Application No. 10/881,026	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 1020.03	:	

This is a decision on the petition filed April 11, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MAY 29 2007

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
William E. Fahl, et al.	:	
Application No. 10/881,028	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. WARF-0236	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 25, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn, LLP has been revoked by the assignee of the patent application on March 2, 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.

There is an outstanding Office action mailed December 11, 2006 that requires a response 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: DR. LAURA HEISLER
INTELLECTUAL PROPERTY MANAGER
WISCONSIN ALUMNI RESEARCH FOUNDATION
PO BOX 7365
MADISON, WI 53707-7365

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

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OFFICE OF PETITIONS

In re Application of

Mark B. Knudson, et al.
Application No. 10/881,045
Filed: June 30, 2004
Attorney Docket No. 14283.1US10

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 3, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a statement from applicant Timothy Conrad's doctor. 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 3766 for action on the merits commensurate with this decision.

~~April M. Wise~~ Dave Bucci
Petitions Examiner
Office of Petitions

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JOHN S. BEULICK
C/O ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST LOUIS MO 63102-2740

MAILED

JAN 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Shaffer, Timothy Scott	:	
Application No. 10/881,070	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 9D-HL-20194 (13307-517)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

This matter is being referred to Technology Center AU 1792 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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MORISHITA LAW FIRM, LLC
3800 HOWARD HUGHES PARKWAY
SUITE 850
LAS VEGAS, NV 89109

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Emil Stavinsky et al. :
Application No. 10/881,077 :
Filed: June 29. 2004 :
Attorney Docket No.: STAVIN04-01 :

This is a decision on the petition filed December 21, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 9, 2004. 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 February 10, 2005. Accordingly, a Notice of Abandonment was mailed May 13, 2005.

This matter is being referred to Technology Center 3711 for appropriate action on the amendment filed December 21, 2005.

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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OFFICE OF PETITIONS

NEIL K. NYDEGGER, ESQ.
NYDEGGER & ASSOCIATES
348 OLIVE STREET
SAN DIEGO, CA 92103

In re Application of:
Eric Ryba and Ravikumar Kudaravalli
Application No. 10/881,085
Filed: June 30, 2004
Title of Invention: SYSTEM FOR DETECTING LEAKS AND OCCLUSIONS IN A CRYOABLATION CATHETER

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the Petition for Filing When a Joint Inventor Refuses to Sign or Cannot be Reached (37 CFR 1.47[(]a), filed October 18, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Ravikumar Kudaravalli, refuses to join in the application.

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

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

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Alexander T. Garthwaite	: DECISION ON REQUEST FOR
Patent Number	: 7620943	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,101	: 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 **1540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of :
Hall, et al. :
Application No. 10/881,109 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 5106-1

This is a decision on the petition under 37 CFR 1.182 to change the order of the inventors cited on this application in USPTO records.

The petition is **granted.**

The order of the inventors is now as follows:

1. Anne Hall
2. Jannine Crowley

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 3600, GAU 3732 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

Enclosure: Corrected Filing Receipt

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	TOT CLMS	IND CLMS
10/881,109	06/29/2004	3732	636	5106-1	30	5

CONFIRMATION NO. 1029

CORRECTED FILING RECEIPT

OC000000025587073

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Date Mailed: 08/28/2007

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)

Anne Hall, Littleton, CO;
Jannine Crowley, Colorado Springs, CO;

Power of Attorney: The patent practitioners associated with Customer Number **22442**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/497,242 08/21/2003

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 US10/881,109

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Hair retention device and method of using same

Preliminary Class

132

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

NOT GRANTED

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

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ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of Allen Brown, Lucius Gregory Meredith and Cosimo Laneve Application No.10/881,142 Filed: June 30, 2004 Attorney Docket No. MSFT-3974/305700.02 Title of Invention: Structured Message Process Calculus	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed March 16, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Meredith and Laneve have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copies of the application were sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lucius Gregory Meredith
505 North 72nd Street
Seattle, Washington 98103

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JUN 08 2005

OFFICE OF PETITIONS

In re Application of
Allen Brown, Lucius Gregory Meredith and Cosimo Laneve
Application No.10/881,142
Filed: June 30, 2004
Attorney Docket No. MSFT-3974/305700.02
Title of Invention: Structured Message Process Calculus

LETTER

Dear Mr. Meredith:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

JOSEPH R. CONDO

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cosimo Laneve
Via Cleto Tomba
Bologna, Italy 40127
Airmail

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OFFICE OF PETITIONS

In re Application of
Allen Brown, Lucius Gregory Meredith and Cosimo Laneve
Application No.10/881,142
Filed: June 30, 2004
Attorney Docket No. MSFT-3974/305700.02
Title of Invention: Structured Message Process Calculus

LETTER

Dear Mr. Laneve:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

JOSEPH R. CONDO

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BASCH & NICKERSON
1777 PENFIELD ROAD
PENFIELD, NY 14526

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DEC 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Steven J. Harrington et al :
Application No. 10/881,157 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 20021550-US-NP :

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

The petition is **DISMISSED**.

Any further petition to revive the above-identified application along with a renewed petition under 37 CFR 1.313(c)(2) must be submitted within TWO (2) MONTHS from the mail date of this decision. This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner requests withdrawal of the instant application from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on July 27, 2005, with the issue/publication fees being due on or before October 27, 2005. The petition states that the issue/publication fees in this case have been paid. However, the Office finance records do not reveal that the required fees have been charged. At the request of the undersigned, petitioner sent by facsimile transmission on December 15, 2005, copies of the previously submitted Part B - Fee(s) Transmittal and "Fee Address" Indication Form. Unfortunately, the facsimile transmission fails to include evidence or a statement to show that the Office received the required issue/publication fees on that date. Although no Notice of Abandonment has been mailed, this application became abandoned by operation of law for failure to timely pay the issue/publication fees on or before October 27, 2005.

Petitioner may wish to consider filing a petition to revive under either 37 CFR 1.8(b), 1.137(a) or 1.137(b). The filing of a petition under 1.8(b) requires (1) that the Office be promptly informed of the previous timely mailing; (2) supply a copy of the previously mailed correspondence with certificate of mailing thereon has been supplied; and (3) supply a statement which attests on a personal knowledge basis as to the previous timely mailing. The filing of a petition under the unavoidably or unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unavoidable or unintentional delay cannot make a

statement that the delay was unavoidable or 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(a) or (b) was unavoidable or unintentional. A statement that the delay was unavoidable or unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(a) or (b).

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

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

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

By fax: (571) 273-8300

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BASCH & NICKERSON
1777 PENFIELD ROAD
PENFIELD, NY 14526

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
Steven J. Harrington et al :
Application No. 10/881,157 :
Filed: June 30, 2004 :
Attorney Docket No. 20021550US-NP :

ON PETITION

This is a decision on the petition under 37 CFR 1.8(b), filed December 19, 2005, requesting withdrawal of the holding of abandonment of the above-identified application. This is also a decision on the renewed petition under 37 CFR 1.313(c)(2), filed December 19, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petitions are **GRANTED**.

The petition complies with 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed Part B - Fee(s) Transmittal with certificate of mailing thereon has been supplied, and (3) a statement which attests on a personal knowledge basis as to the previous timely mailing have been submitted.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

Petitioner is advised that the issue fee paid on August 3, 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]

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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).

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

This matter is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed November 17, 2005.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. None

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IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Abbas Alli Ghudubhai, Ganesh Kannan, and	:	
Mahalakshmi Ramamurthi Ganapathi	:	
Application No. 10/881,161	:	
Filed: June 30, 2004	:	DECISION ON PETITION
Attorney Docket No. 130903-1	:	
Title: COPOLYMERS CONTAINING	:	
INDAN MOIETIES AND BLENDS	:	
THEREOF	:	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed January 18, 2005.

On June 30, 2004, the application was filed, identifying Abbas Alli Ghudubhai, Ganesh Kannan, and Mahalakshmi Ramamurthi Ganapathi as joint inventors. The application was deposited with a declaration pursuant to 37 C.F.R. §1.63 which was executed by the first two named joint inventors. On August 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application –

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

Filing Date Granted" (Notice) was mailed, indicating that the signature of Mr. Ganapathi was missing, and that a fully executed oath or declaration and a surcharge were required. This Notice set a two-month period for reply.

Along with the instant petition, Petitioner has submitted the petition fee[2], the surcharge, and a three-month extension of time[3] to make timely this response.

The petition has met requirements (1) – (2) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[4].

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.* It does not appear that Petitioner has made any effort to locate 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[5]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Regarding the fifth requirement, Petitioner has not provided the last known address of the non-signing inventor. Petitioner has also failed to attempt to locate the non-signing inventor. As such, it cannot be determined if the declaration complies with 37 CFR §1.63(c)(1).

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

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

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

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner

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2 Petitioner has submitted $130. The fee associated with the filing of a petition under 37 C.F.R. §1.47(a) is $200. The difference has been charged to Petitioner's Deposit Account, as authorized in the petition.

3 The petition contains a certificate of mailing dated January 14, 2005.

4 See MPEP 409.03(e).

5 See MPEP 409.03(d).

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[6], hand-delivery[7], or facsimile[8].

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

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

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

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

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

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

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PITTSFIELD MA 01201-3697

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Shaikh et al	:	
Application No. 10/881,161	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 130903-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 1, 2006, which set a shortened statutory period for reply of three (3) months. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 2, 2006. A Notice of Abandonment was mailed on October 23, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment/response, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of August 1, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1712 for appropriate action in the normal course of business on the reply received to the outstanding Office action of August 1, 2006.

The rule at 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,590 extension of time fee submitted on March 1, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER-BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Hirotaka Uchiyama et al	:	
Application No. 10/881,173	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 9716	:	

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 August 17, 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 18, 2004.

The second surcharge fee ($130) is unnecessary. This fee is being credited to petitioner's deposit account, as authorized.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PENFIELD, NY 14526

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Steven J. Harrington et al :
Application No. 10/881,188 :
Filed: June 30, 2004 :
Attorney Docket No. 20021552-US-NP

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2621 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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PENFIELD, NY 14526

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OFFICE OF PETITIONS

In re Application of	:	
Harrington et al.	:	
Application No. 10/881,188	:	
Filing or 371(c) Date: 06/30/2004	:	ON PETITION
Attorney Docket Number:	:	
20021552-US-NP	:	

This is a decision on the Petition for Refund Under 37 C.F.R. 1.181, filed April 10, 2006.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.183". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition and provides that on November 17, 2005, he filed a petition to withdraw the above-identified application from issue, along with a Request for Continued Examination ("RCE"), and authorized this Office to charge his deposit account a fee of $200.00 for the petition to withdraw the application from issue. Applicant states that the fee for the petition to withdraw the application from issue costs $130.00, and requests a refund of $70.00, the amount over $130.00 that Applicant authorized this office to charge for the petition to withdraw from issue.

A review of office finance records reveals that on November 17, 2005, this Office received the authorization to charge Applicant's deposit account the RCE and petition to withdraw from issue fees. On November 21, this Office charged Applicant $790.00 for the RCE and $130.00 for the petition to withdraw the application from issue.

In view of the foregoing, the petition is dismissed.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of	:	
Srinivasan, et. al.	:	DECISION ON REQUEST
Application No. 10/881,195	:	TO WITHDRAW FROM
Filed: June 29, 2004	:	RECORD
Attorney Docket No. 18685-000600US	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on May 2, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: AKA CHAN, LLP
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of	:	
James Yik, et al.	:	
Application No.: 10/881,226	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 23562	:	

This is a decision on the petition under 37 CFR 1.182, filed December 12, 2005, to change the name of one of the joint inventors.

The petition is **GRANTED**.

The name of the third inventor has been changed from Eric Lin to **Changhwa Lin**.
A corrected Filing Receipt is enclosed.

The application is being referred to Technology Center AU 2616.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/881,226	06/30/2004	2616	950	23562	6	2	2

CONFIRMATION NO. 1299
CORRECTED FILING RECEIPT
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OC000000021763580

24932
LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS, MD 21403

Date Mailed: 12/28/2006

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)

James Yik, Mission Viejo, CA;
Rong-Feng Chang, Irvine, CA;
Changhwa Lin, Irvine, CA;
John Ta, Laguna Niguel, CA;
Craig Barrack, Irvine, CA;

Assignment For Published Patent Application

Zarlink Semiconductor Inc., Kanata, CANADA

Power of Attorney:

Arthur Schwartz--22115
Lawrence Laubscher Jr--28233

Domestic Priority data as claimed by applicant

Foreign Applications

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
US10/881,226

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Combined pipelined classification and address search method and apparatus for switching environments

Preliminary Class

370

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).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

2 7 MAR 2008

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John F. Klos, Esq.
Fulbright & Jaworski LLP
2100 IDS Center
80 South 8th Street
Minneapolis MN 55402-2112

In re Application of FENTON, Gustav R. Application No.: 10/881,232 Filed: June 30, 2004 Attorney Docket No.: 25,961-12US For: DISPENSERS FOR TISSUE DILATOR DEVICES	:	DECISION ON PETITION

This decision is in response to applicant's "Petition and Amendment under 37 CFR 1.78 for Unintentionally Delay in Correcting Priority Claim" dated February 25, 2008, requesting acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 365(c) to international application PCT/US02/41541. Because the accompanying amendment also adds a priority claim to a prior filed provisional application, the petition is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application.

The petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and (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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the

> claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Here, the amendment submitted with the present petition indicates that "this application is a national stage filing of International Application No. PCT/US02/41541." The present nonprovisional application is considered a filing under 35 U.S.C. 111, as explained below. The amendment fails to state the proper relationship of the present application to International Application No. PCT/US02/41541 filed December 27, 2002 and U.S. provisional application 60/346,154. (See 37 CFR 1.78(a)(2)(i)) Therefore, the amendment filed February 25, 2008 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

It is noted that any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP (Eighth edition Rev. 5) states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On June 30, 2004, applicant submitted a transmittal letter entitled "Patent Application Transmittal Letter" for a Utility Patent Application Under 37 CFR 1.53(b). The submission of a transmittal letter for an utility patent application under 37 CFR 1.53(b) is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on June 30, 2004 were properly treated as a filing under 35 U.S.C. 111(a).

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

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

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

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

By fax: (571) 273-8300
ATTN: Office of PCT Legal Adminstration

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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2 8 AUG 2008

John F. Klos, Esq.
Fulbright & Jaworski LLP
2100 IDS Center
80 South 8th Street
Minneapolis MN 55402-2112

In re Application of	:	
FENTON, Gustav R.	:	
Application No.: 10/881,232	:	
Filed: June 30, 2004	:	DECISION ON PETITION
Attorney Docket No.: 25,961-12US	:	
For: DISPENSERS FOR TISSUE DILATOR	:	
DEVICES	:	

This is a decision on the "Renewed Petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to Accept Priority Claim" filed July 27, 2008 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 § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a proper reference to the prior-filed applications has been included in an amendment to the first sentence of the specification, 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 Anthony Smith at (571) 272-3296. 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 3728 for appropriate action on the amendment submitted July 27, 2008, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Boris Milef
Legal Examiner
Office of Petitions/Office of PCT Legal Administration

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/881,247	06/30/2004	Robert T. Golla	5681-97800	8507

58467 7590 09/11/2008
MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER
PETRANEK, JACOB ANDREW

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
09/11/2008	PAPER

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

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

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SEP 11 2008

TECHNOLOGY CENTER 2100

MHKKG/SUN
P.O. BOX 398
AUSTIN TX 78767

In re Application of: Robert T. GOLLA.
Application No. 10/881,247
Attorney Docket No.: 5681-97800
Filed: June 30, 2004
For: MECHANISM FOR SELECTING INSTRUCTIONS FOR EXECUTION IN A MULTITHREADED PROCESSOR

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed June 6, 2008, under 37 C.F.R. § 1.181 requesting that the Examiner's Answer mailed on April 7, 2008, be corrected to state that it includes a New Grounds of Rejection.

The Petition is **DISMISSED.**

Applicable Prosecution History

November 22, 2006	Non-Final (FAOM) action mailed. Claims 1, 11, and 21 rejected under 35 U.S.C. §103(a) as being unpatentable over Burns et al. (U.S. 6,651,158), in view of Parady (U.S. 2002/0091915).
February 9, 2007	Applicant replied to the First Office action with amendment and remarks. Did not amend claims 1, 11, and 21.
March 19, 2007	Final Rejection mailed. Claims 1, 11, and 21 were rejected on the same grounds as in the FAOM.
July 19, 2007	Pre-Appeal Conference Request
August 16, 2007	Pre-Appeal Conference Decision mailed.
September 19, 2007	Appeal Brief filed.
December 6, 2007	Non-Compliant brief mailed.

January 4, 2008	Corrected Appeal Brief filed.
April 7, 2008	Examiner's Answer mailed. Claims 1, 11, and 21 were rejected on the same grounds as in the FAOM. Included extrinsic evidence (Hennessy and Patterson : "Computer Architecture: A Quantitative Approach") in the Response to arguments section.
June 6, 2008	Instant petition filed, requesting correction on Examiner's Answer.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely.

The petition filed on June 6, 2008 includes the elements above, and is filed within 2 months of the mailing of the Examiner's Answer.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests correction of Examiner's Answer to state that claims 1, 11, and 21 are rejected on New Grounds of rejection.

OPINION

Petitioner presents the following arguments in support of the position that the Answer be corrected:

a) Examiner's Answer is improper because a new art reference was cited as Extrinsic Evidence in support of the First Ground of the rejection of claims 1, 11, and 21, and the rejection was not designated as a New Ground of Rejection.

RULES AND REGULATIONS

MPEP states in part:

> 1207.03 [R-3] < New Ground of Rejection in Examiner's Answer
> 37 CFR **>41.39(a)(2) permits< the entry of a new ground of rejection in an examiner's answer >mailed on or after September 13, 2004. New grounds of rejection in an examiner's answer are envisioned to be rare, rather than a routine occurrence. For example, where appellant made a new argument for the first time in the appeal brief, the examiner may include a new ground of rejection in an examiner's answer to

address the newly presented argument by adding a secondary reference from the prior art on the record. New grounds of rejection are not limited to only a rejection made in response to an argument presented for the first time in an appeal brief<. At the time of preparing the answer to an appeal brief, * the examiner may decide that he or she should apply a new ground of rejection against some or all of the appealed claims. In such an instance where a new ground of rejection is necessary, the examiner should **>either reopen prosecution or set forth the new ground of rejection in the answer<.

III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION<
There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection.

A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970). Where a newly cited reference is added merely as evidence of the prior statement made by the examiner as to what is "well-known" in the art which was challenged for the first time in the appeal brief, the citation of the reference in the examiner's answer would not ordinarily constitute a new ground of rejection within the meaning of 37 CFR 41.39(a)(2). See also MPEP § 2144.03.

ANALYSIS

MPEP 1207.03 sets forth that "Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection".

In the instant application, Examiner has maintained the rejection of claims 1, 11, and 21 from the FAOM and Final rejections, in the Examiner's Answer mailed on April 7, 2008, with the same sections of the reference as were cited in the rejection of these claims in the FAOM (non-final rejection) mailed on November 22, 2006, and the Final rejection mailed on March 19, 2007.

In the "response to arguments" section of the final rejection examiner states

> "Applicant argues "Burns failed to teach a pick unit coupled to the plurality of buffers and configured to pick from at least one of the plurality of buffers in a given cycle, a valid instruction based upon a thread selection algorithm" for claim 1.
>
> This argument is not found to be persuasive for the following reason. It's **obvious to one of ordinary skill in the art** that Burns selects valid instructions from the thread queues because if invalid instructions were selected, then Burns would have to disclosed how to deal with invalid instructions selected for execution. Control element 17 selects which instruction from the two queues is selected to be processed by the processor through the MUX element 15. The mere fact of selecting between the two shows an algorithm is present to determine when a first thread is selected over a second thread."

However, the same point presented above was being argued by Petitioners in the Appeal Brief filed on 1/4/08, and hence the extrinsic evidence shown in Hennessy and Patterson on pages 608-609, for example, was brought in by examiner in the "Response to Arguments" section of the examiner's answer, **to establish the skill of one of ordinary skill in the art**, as can be verified by the following excerpt from the examiner's answer:

> A.) Appellant argues "Burns failed to teach a pick unit configured to pick a valid instruction based upon a thread selection algorithm. Burns neither mentions that the instructions are selected by any type of algorithm nor that a valid instruction is picked from among the instructions in the queue."
> The examiner disagrees for the following reasons. Control element 17 of Burns inherently is programmed with an algorithm that controls the selection of instructions from threads. Burns disclosed in column 3 lines 26-40 that the invention can be modified to support simultaneous multithreading, which will execute a plurality of threads in parallel in a given execution cycle. The invention shown in figure 2 performs general multithreading where a single thread is selected for execution in a given cycle. **Extrinsic evidence shown in Hennessy and Patterson on pages 608-609 describe general multithreading is shown to support what is well-known to one of ordinary skill in the art.** Hennessy and Patterson describe that "multithreading allows multiple threads to share the functional unit of a single processor in an overlapping fashion." In the second and third paragraphs of section 6.9, Hennessy and Patterson describe .....

It is noted that the grounds of rejection of the claims 1, 11 and 21 has not changed, the claims being rejected under 35 U.S.C. §103(a) as being unpatentable over Burns et al. (U.S. 6,651,158), in view of Parady (U.S. 2002/0091915). Hennessy and Patterson were not used to support the rejection. Examiner has attempted to show by a discussion of the extrinsic evidence in the Response to Arguments section, as to how one of ordinary skill in the art, as exemplified by Hennessy and Patterson on pages 608-609, for example, would read the prior art references of Burns and Parady to arrive at the claimed invention. It is seen that no new grounds of rejection have been introduced in the

rejection set forth in the Examiner's answer mailed April 7, 2008, of the respective claims.

For the reasons set forth above, the petition is **DISMISSED**.

The application file is being forwarded to the examiner for consideration of the Reply Brief filed on June 6, 2008.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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JUL 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,242,063 :
Issue Date: July 10, 2007 :
Application No. 10/881,286 : ON PETITION
Filed: June 29, 2004 :
Patentee(s): Lap-Wai Chow, et. al. :

This is a decision on the request for Certificate of Correction under 37 CFR 1.323 filed November 14, 2007, which is being treated as a request under 37 CFR 3.81[1], to add two additional names of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the failure to include the additional names of the assignee was the fault of petitioner's, a processing fee of $130 is required for treatment of the instant request. Therefore, the assignee information will be not be added until petitioner supplies the above processing fee in accordance with 37 CFR 1.17(i).

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 may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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Richard P. Berg
Ladas & Parry
Suite 2100
5670 Wilshire Boulevard
Los Angeles, CA 90036

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OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Woong Seong Chang, et. al.	:	
Application No. 10/881,289	:	NOTICE
Filed: June 29, 2004	:	
Attorney Docket No. B-5484 621980-1	:	

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

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

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

This file is being referred to the Office of Initial Patent Examination for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA VA 22314

In re Application of
MULLINS, et al.
Application No. 10/881,329
Filed: June 29,.2004
For:
SYSTEM AND METHOD FOR THE POWERING AND FAULT PROTECTION OF REMOTE TELECOMMUNICATIONS EQUIPMENT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on September 23, 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.

A Revocation and Power of Attorney was filed September 2, 2005. Accordingly, the request is dismissed.

Future correspondence will be sent to the above address, which has been provided by the revocation.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/881,344	06/30/2004	Randy L. Hoffman	200316158-1	1639

22879 7590 08/05/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
STARK, JARRETT J

ART UNIT	PAPER NUMBER
2823	

NOTIFICATION DATE	DELIVERY MODE
08/05/2008	ELECTRONIC

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

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

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

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10881344	6/30/2004	HOFFMAN ET AL.	200316158-1

EXAMINER
MATTHEW SMITH

ART UNIT	PAPER
2823	20080730B

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

DATE MAILED:

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

Commissioner for Patents

A Decision on the applicant's petition is provided herewith. The application is being forwarded to the examiner for further action consistent with the decision herein.

/Matthew S. Smith/
Supervisory Patent Examiner, Art Unit 2823

Matthew S. Smith
SPE
Art Unit: 2823

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Paper No. 07302008

Julia Church Dieker
Dieker & Associates, P. C.
331 West Big Beaver Rd., Suite 109
Troy, Michigan, 48084-2813

Appl No.: 10/881,344	:	
Inv: Randy L. Hoffman et al.	:	**DECISION ON PETITION**
Filed: June 30, 2004	:	**UNDER** *37 CFR §§ 1.144 and*
For: SUBSTANTIALLY TRANSPARENT ELECTRONIC DEVICES AND METHODS OF MAKING THE SAME	:	*1.181*

This is a decision on the applicant's "Petition to Withdraw the Restriction of June 11, 2007" filed under 37 CFR §§1.144 and 1.181 filed November 26, 2007. The applicant requests that the restriction requirement of June 11, 2007 be removed or that in addition or in the alternative request the following: withdrawal of the subspecies restriction of claims 41 and 44; proper acknowledgement of election of July 11, 2007 be considered an election with traverse; and that claims 59 and 60 be examined with claims 57 and 58.

After a careful review of the file and the arguments the following outlines the decision on each of the four issues raised by the applicant's petition and the final disposition of the application.

As to the issue as to the propriety of the restriction, the restriction between Groups I and II were not necessary in that claim 22 is a product by process claim and

as such should be grouped with the device or product. As claim 22 deals with the oxidizing form of the formation of the dielectric layer, this claim should have been grouped with indicated Species 1. The species portion of the restriction(between Species 1 and 2) is proper as during the course of prosecution there was determined a structural difference between an oxidation process and an anodizing process. In other words, these two processes generate different characteristics in the dielectric layer and thus the two different species(Species 1 and Species 2) are proper. As a side note in defining species, the MPEP indicates that species are not claims but are drawings and no class and subclass designations are required. When a species restriction is made the examiner sites Figures and provides a statement indicating the mutually exclusive feature. The determination of the structural differences generated by the anodizing versus oxidizing does create a burden on the examiner as these two methods have been argued and agreed are different and result in different structural characteristics in the dielectrics. This burden was not seen until pointed out in applicant's arguments and was not considered previously. As restrictions can occur at any stage of prosecution and the fact that this was argued as a difference between the two manners of formation, a burden was noticed and the burden of examining two different inventions is present. As to the issue on the propriety of the restriction, the applicant's petition for withdrawal is **denied**.

As to the issue of whether the subspecies restriction between claims 41 and 44 is proper, the applicant's arguments are persuasive and the petition to remove the distinction between these two alleged sub-species is withdrawn and applicant's petition on this issue is **granted.**

As to the issue of the correctness of the with or without traversal of the restriction, the applicant's petition is **granted.**

While not specifically stating that the restriction was with traverse, the applicant produced arguments and detailed reasons for supporting the position that the restriction was not proper and thus was taken with traverse.

As to the last issue with respect of claims 59 and 60 being incorporated in or examined with claims 57 and 58, the applicant's petition is **granted.**

The species distinction between the indicated sub-species 2a-2d does not show a mutually exclusive feature and thus the only real species involves the oxidation and anodization distinction.

The file is being forwarded to Examiner for further prosecution in accordance with the decisions herein wherein an examination of claims 28-33, 41-46 and 57-60 will be conducted.

Matthew S. Smith

Supervisory Primary Examiner AU 2823

Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of Carsten Helmut Meyer, Eduardo Buchele Rodriques and Gerrit Jan Vijfvinkel Application No.10/881,345 Filed: June 30, 2004 Attorney Docket No. 930841.00005 Title of Invention: Apparatus For Applying Fluid In The Eye	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed December 13, 2004 and supplemented on January 26, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Meyer and Rodriques have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copies of the application were sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Eduardo Buchele Rodriques
Friedrichstrasse 26
Whg 25 D-35037 Marburg
Germany
Airmail

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of
Carsten Helmut Meyer, Eduardo Buchele Rodriques and Gerrit Jan Vijfvinkel
Application No.10/881,345
Filed: June 30, 2004
Attorney Docket No. 930841.00005
Title of Invention: Apparatus For Applying Fluid In The Eye

LETTER

Dear Mr. Rodriques:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Daniel G. Radler

QUARLES & BRADY LLP
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MILWAUKEE WI 53202-4497

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Carsten Helmut Meyer
Wilhelm-Roser Strasse 9
D-35078 Marburg, Germany
Airmail

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of
Carsten Helmut Meyer, Eduardo Buchele Rodriques and Gerrit Jan Vijfvinkel
Application No.10/881,345
Filed: June 30, 2004
Attorney Docket No. 930841.00005
Title of Invention: Apparatus For Applying Fluid In The Eye

LETTER

Dear Mr. Meyer:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. _____

Date : July 14, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David F. Meschan
Application No. :10/881,348
Filed :June 30, 2004

The above-identified application has been assigned Patent No. 6,920,706 and an issue date of July 26, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 26, 2005:

"All reference to Patent No. 6,920,706 to David F. Meschan of North Carolina for ATHLETIC SHOE HAVING CUSHIONING appearing in the Official Gazette of July 26, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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

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JUL 1 4 2005

OFFICE OF PETITIONS

In re Application of :
David F. Meschan :
Application No. 10/881,348 :
Filed: June 30, 2004 :
Attorney Docket No. 104.0003-10000 :

ON PETITION

This is a decision on the petition, filed July 13, 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 18, 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 3728 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : August 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David F. Meschan
Application No. :10/881,350
Filed :June 30, 2004

The above-identified application has been assigned Patent No. 6,922,915 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,922,915 to David F. Meschan of North Carolina for ATHLETIC SHOE WITH PLATE appearing in the Official Gazette of August 2, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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OFFICE OF PETITIONS

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

In re Application of :
David F. Meschan :
Application No. 10/881,350 :
Filed: June 30, 2004 :
Attorney Docket No. 104.0003-18000 :

ON PETITION

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 18, 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 3728 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 7040041
Issue Date: May 9,2006
Application No. 10881350
Filed: June 30,2004
Attorney Docket No. 104.0003-18000

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

This is a decision on the electronic petition, filed May 11,2010 ,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 May 11,2010 .
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.

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)
7,040,041	2006-05-09	10/881,350	2004-06-30	104.0003-18000

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Thomas H. Martin/	Date (YYYY-MM-DD)	2010-05-11
Name	Thomas H. Martin	Registration Number	34383

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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Paper No.

Carlos Nieves, Esq.
J.M. Huber Corporation
333 Thornall Street
Edison NJ 08837-2220

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Lynch	:	DECISION ON PETITION
Application No. 10/881,359	:	
Filed: June 30, 2004	:	
Attorney Docket No. 03-220	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181(a)" filed April 18, 2005. This petition was recently forwarded to the undersigned for consideration.

By Notice of Abandonment mailed April 11, 2005, the above-identified application was held abandoned for failure to file a reply to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed September 2, 2004.

On April 18, 2005, applicant timely filed the instant petition, requesting withdrawal of the holding of abandonment on the basis that applicant did in fact reply to the Notice to File Corrected Application Papers. Specifically, on February 2, 2005, applicant submitted corrected drawings. In support thereof, applicant submits a copy of the response as filed on February 2, 2005, and a copy of their date-stamped and itemized return postcard.

A review of the record confirms that on February 2, 2005, corrected drawings (with an extension of time for response within the third month) were timely filed in response to the Notice mailed September 2, 2004. These drawings are of record in the application with a date of receipt of February 2, 2005 stamped thereon. (It is noted that corrected drawings were originally filed on December 6, 2004. In response to a Notice

of Incomplete Reply, requesting electronically reproducible drawings, further drawings were filed on February 2, 2005).

In view thereof, the Notice of Abandonment mailed April 11, 2005 is **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is, thereby, forwarded to OIPE to withdraw the holding of abandonment and to complete pre-examination processing, using the corrected drawings of record in the application.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Kai Kroll et al.
Application No. 10/881,375
Filed: June 29, 2004
Attorney Docket No.: **3102.021**

ON PETITION

This is a decision on the petition filed January 22, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 11, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to abandonment, this application became abandoned July 12, 2007. Accordingly, a Notice of Abandonment was mailed January 22, 2008, on even date with the filing of the petition.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $525.00 extension of time fee submitted with the petition on January 22, 2008, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited back to the credit card used to charge the fee.

---

[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)).

This matter is being referred to Technology Center 3766 for appropriate action on the amendment filed January 22, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

Mail Date: 04/21/2010

Applicant	: Stephanie Kute	: DECISION ON REQUEST FOR
Patent Number	: 7601117	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,381	: 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 **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 0 1 2005

OFFICE OF PETITIONS

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

In re Application of :
David F. Meschan :
Application No. 10/881,395 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 104.0003-08000 :

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 18, 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 3728 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).

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)
7,040,040	2006-05-09	10/881,395	2004-06-30	104.0003-08000

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Thomas H. Martin/	Date (YYYY-MM-DD)	2010-05-11
Name	Thomas H. Martin	Registration Number	34383

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. 7040040
Issue Date: May 9,2006
Application No. 10881395
Filed: June 30,2004
Attorney Docket No. 104.0003-08000

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

This is a decision on the electronic petition, filed May 11,2010 ,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 May 11,2010 .
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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SEAGATE TECHNOLOGY LLC
C/O WESTMAN, CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3244

Mail Date: 04/21/2010

Applicant	: Xueshi Yang	: DECISION ON REQUEST FOR
Patent Number	: 7665007	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,398	: 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 **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170

In re Application of	:	
Kenji Takeshita	:	
Application No. 10/881,410	:	DECISION ON PETITION
Filed: June 29, 2004	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
P1176X/LMRX-P021C1	:	
Title: SELECTIVITY CONTROL	:	
IN A PLASMA PROCESSING	:	
SYSTEM	:	

This is a decision on the petition filed May 15, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The 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 September 13, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on

1 See MPEP §710.02(e).

December 14, 2007. A Notice of Abandonment was mailed on January 9, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an Information Disclosure Statement (IDS), and the proper statement of unintentional delay.

The issue fee will be charged to Petitioner's Deposit Account in due course. See 37 C.F.R. § 1.137(c).[2]

The first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the IDS received on May 15, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the

2 "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."

Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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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 25 2004

OFFICE OF PETITIONS

In re Application of	:
Woo et al.	:
Application No. 10/881,413	:DECISION GRANTING PETITION
Filed: 29 June, 2004	:
Attorney Docket No. 60809-0145-US	:

This is a decision on the petition filed on 13 September, 2004, requesting that the above-identified application be accorded a filing date of 29 June, 2004, instead of the presently accorded filing date of 30 June, 2004.

The petition is **GRANTED**.

Petitioners assert that the application was deposited in Express Mail service on 29 June, 2004. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 29 June, 2004, petitioners supplied, with the present petition, a copy of Express Mail Customer Label No. EV371772448US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file). The "date-in" on the Express Mail Label, is "06 29 2004". Additionally, the Express Mail label contains an official USPS postmark, however, dated 29 June, 2004.

In view of the above, the application is entitled to a filing date of 29 June, 2004.

The petition is granted. No petition fee is due and none has been charged.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 29 June, 2004, not 30 June, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/881,413	06/29/2004	2186	1242	060809-0145-US	7	39	3

CONFIRMATION NO. 1467

UPDATED FILING RECEIPT

OC000000014184527

38426
MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Date Mailed: 10/25/2004

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

Applicant(s)

Steven C. Woo, Saratoga, CA;
Bradley A. May, San Jose, CA;
Liewei Bao, Westford, MA;

Power of Attorney: The patent practitioners associated with Customer Number **38426**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/881,413

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Memory controller with prefetching capability

Preliminary Class

711

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

GRANTED

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

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

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

NOT GRANTED

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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JAN 14 2009

In re Application of	:	
Robert Burgermeister, et. al.	:	
Application No. 10/881,424	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. CRD-5101 USANP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on December 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, April 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on July 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3734 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/881,433	06/29/2004	2182	1568	060809-5021-US	22	50	6

PENNIE & EDMONDS LLP
3300 Hillview Avenue
Palo Alto, CA 94304

CONFIRMATION NO. 1679
CORRECTED FILING RECEIPT
OC000000014041526

Date Mailed: 10/08/2004

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

Applicant(s)

Mark A. Horowitz, Menlo Park, CA;
Richard M. Barth, Palo Alto, CA;
Craig E. Hampel, San Jose, CA;
Alfredo Moncayo, Redwood City, CA;
Kevin S. Donnelly, Los Altos, CA;
Jared L. Zerbe, Woodside, CA;

Assignment For Published Patent Application

Rambus Inc.

Power of Attorney:

Kirk Gottlieb–42596

Domestic Priority data as claimed by applicant

This application is a CON of 10/763,849 01/22/2004
which is a CON of 10/359,061 02/04/2003 PAT 6,684,263
which is a CON of 09/910,217 07/19/2001 PAT 6,516,365
which is a CON of 09/420,949 10/19/1999 PAT 6,321,282

Foreign Applications

If Required, Foreign Filing License Granted: 08/20/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/881,433

Projected Publication Date: 12/02/2004

Non-Publication Request: No

Early Publication Request: No

Title

Memory device having programmable drive strength setting

Preliminary Class

710

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

GRANTED

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

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

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

NOT GRANTED

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

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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Bruce A. Pryor	: DECISION ON REQUEST FOR
Patent Number	: 7603102	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,435	: 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 **1506** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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MOMENTIVE PERFORMANCE MATERIALS INC.
IP LEGAL
ONE PLASTICS AVENUE
BLDG. 51
PITTSFIELD, MA 01201-3697

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AUG 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Weizhen Cai et al	:	
Application No. 10/881,450	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. US 142869-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 non-final Office action mailed August 2, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 3, 2006.

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This matter is being referred to Technology Center AU 1713 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Adrian T. Calderone
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cymer Inc.
Legal Department
17075 Thornmint Court
San Diego, CA 92127-2413

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AUG 3 1 2004
OFFICE OF PETITIONS

In re Application of	:	
Rafac et al.	:	
Application No. 10/881,533	:	DECISION ON
Filed: June 29, 2004	:	PETITION
Attorney Docket No. 2003-0120-01	:	
	:	

This is a decision on the petition filed August 4, 2004, requesting that the above-identified application be accorded a filing date of June 29, 2004, instead of June 30, 2004.

The United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is June 29, 2004. Therefore, the petition involves a moot issue.

Accordingly, the petition is dismissed.

A Corrected Filing Receipt accompanies the present decision.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CATERPILLAR INC.
INTELLECTUAL PROPERTY DEPT.
AB 6490
100 N.E. ADAMS STREET
PEORIA IL 61629-6490

In re Application of	:	
Carlton, et al.	:	
Patent No. 7,000,590	:	DECISION
Issue Date: 21 February, 2006	:	
Application No. 10/881,536	:	
Filed: 30 June, 2004	:	
Attorney Docket No. 03-300	:	

This is a decision on the petition filed on 2 May, 2006, which is being treated as a request under 37 C.F.R. §3.81(b)[1] to correct the name of the assignee and other information (attorney names) on the front page of the above-identified patent by way of a Certificate of Correction.

The Office regrets the delay in addressing this matter, however, the instant petition was provided to the attorneys in the Office of Petitions only on this writing.

The request is **GRANTED** (upon the instant showing of the recordation of the assignments on 3 September, 2004, at Reel/Frame 015764/0363 to Caterpillar Inc.).

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

---

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

Application No. 10/881,536
Patent No. 7,000,590

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

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

---

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

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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
10/881,542	06/29/2004	2122	385	AGWA001	6	14	3

CONFIRMATION NO. 1360

UPDATED FILING RECEIPT

OC000000014241629

William C. Milks, III
RUSSO & HALE LLP
401 Florence Street
Palo Alto, CA 94301

Date Mailed: 10/29/2004

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

Applicant(s)

Gregory Clifford, Tracy, CA;

Power of Attorney:

William Milks III–28445

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/881,542

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System for identifying project status and velocity through predictive metrics

Preliminary Class

717

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

GRANTED

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

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

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

NOT GRANTED

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Dannie C. Lau et al	:	
Application No. 10/881,549	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. 11336/1134 (P00106USC)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **APPROVED**.

The request was signed by John F. Nethery on behalf of the attorneys / agents who are associated with customer No. 81166.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Dannie C. Lau
285 Landeros Drive
Santa Clara, CA 95051

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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In re Application of	:	
Lorentz	:	
Application No. 10/881,551	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. RUS0170	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

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

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

April Wise
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 04/21/2010

Applicant	: Raja Doraisamy	: DECISION ON REQUEST FOR
Patent Number	: 7590986	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,552	: 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 **1477** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097-1556

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OFFICE OF PETITIONS

In re Application of :
Turek et al. :
Application No. 10/881,572 :
Filed: June 30, 2004 :
Attorney Docket Number: CL/V-31679B :
Title of Invention: Tinted, High DK Ophthalmic :
Molding and a Method For Making Same :

ON PETITION

This is a decision on the petition filed July 5, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed October 13, 2005. 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 January 14, 2006. A Notice of Abandonment was mailed on June 8, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:
Guidry, et al.	: DECISION ON PETITION
Application No. 10/881,576	:
Filed: June 30, 2004	:
Docket No.: TI-37727	:
(032350.B608)	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 21, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed March 20, 2006. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed July 26, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Publications Division for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DIW 03-05

STEPHEN BAIR
SUITE 22
5050 CASS STREET
SAN DIEGO CA 92109

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of Stephen Bair Application No. 10/881,578 Filed: 25 October, 2004 For: CONTOUR LUMBAR SUPPORT SLEEP PILLOW	:	COMMUNICATION

This letter is in reference to the communication filed on 25 October, 2004, which is treated as a petition under 37 CFR 1.53, requesting that the application be accorded a filing date of 30 June, 2004.

The petition is dismissed.

The petition lacks the required fee. A request to change the filing date of, or accord a filing date to, an application must be made by way of a petition under 37 CFR 1.53 accompanied by the petition fee set forth in 37 CFR 1.17(f) (currently $400.00).[1] Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted.

It is also noted that although petitioner states that the prior provisional application was incorporated by reference, no statement of incorporation by reference of the prior-filed provisional application is located among the application papers deposited on 25 June, 2004.

---

[1] MPEP 506.02 and 37 CFR 1.53(e).

[2] 37 CFR 1.22(a).

As a review of the record reveals that a complete application was filed on 25 October, 2004, and the application was properly accorded a filing date of 25 October, 2004.

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

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

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

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

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Stephen Bair
27 East J Street
Encinitas CA 92024

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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Stephan Strong
273 Pegosa Way
Fremont, California 94539

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OFFICE OF PETITIONS

In re Application of :
Oyadomari, et al. :
Application No. 10/881,620 : LETTER
Filed: June 30, 2004 :
Docket No.: 15436.201.1 :
For: PROPAGATION OF SIGNALS :
BETWEEN DEVICES FOR TRIGGERING :
CAPTURE OF NETWORK DATA :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of	:
Oyadomari, et al.	: DECISION GRANTING STATUS
Application No. 10/881,620	: UNDER 37 CFR 1.47(a)
Filed: June 30, 2004	:
Atty. Dkt. No.: 15436.201.1	:
For: PROPAGATION OF SIGNALS	:
BETWEEN DEVICES FOR TRIGGERING	:
CAPTURE OF NETWORK DATA	:

This decision is in response to the petition under 37 CFR 1.47(a), filed November 23, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Stephen Strong has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

In re Application of
Kenneth M. Wallquist
Application No. 10/881,623
Filed: June 30, 2004
Attorney Docket No. CYGL-26,814

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 17, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 10, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No.

James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of Philip Landman and Joaquin de Soto Application No. 10/881,650 Filed: June 29, 2004 Attorney Docket No. 06769.P004 Title: MANAGEMENT OF MULTIPLE WINDOW PANELS WITH A GRAPHICAL USER INTERFACE	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is a decision on the "PETITION TO FILE APPLICATION UNDER 37 C.F.R. § 1.47(a)," filed November 26, 2004 (certificate of mailing Monday, November 22, 2004)

The petition is **GRANTED**.

The above-identified application was filed on June 29, 2004, with an unexecuted declaration. Accordingly, on August 20, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration, and the surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed a declaration executed by joint inventor Landman on behalf of himself and on behalf of non-signing joint inventor de Soto; the instant petition and fee under § 1.47(a) and authorization to charge their Deposit Account any required fees. This response was made timely by an accompanying petition for extension of time within the first month (and fee). Applicants assert that status under § 1.47(a) is proper because joint inventor de Soto refuses to cooperate. In support thereof, applicants submit the declaration of attorney James Scheller.

The petition includes a check in the amount of $130 to cover the petition fee. As the petition fee increased to $200, effective November 22, 2004, the deficiency of $70 has been charged to petitioner's Deposit Account, as authorized. The petition also includes a statement of the last known address of inventor de Soto. Furthermore, the declaration of attorney Scheller, with supporting documentary evidence, attests to having presented the application papers to inventor de Soto, and inventor de Soto, by his conduct in not responding, refusing to join in the application.

The petition and declaration filed November 26, 2004 have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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

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

The application will be forwarded to Technology Center 2173 for examination in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOAQUIN DE SOTO
8230 LOS PINOS CIRCLE
CORAL GABLES, FL 33143

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Philip Landman and Joaquin de Soto :
Application No. 10/881,650 : LETTER
Filed: June 29, 2004 :
Attorney Docket No. 06769.P004 :
Title: MANAGEMENT OF MULTIPLE :
WINDOW PANELS WITH A GRAPHICAL USER :
INTERFACE :

Dear Mr. de Soto:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

James C. Scheller, Jr.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Patent of Radhakrishnan et al.	:	
Patent No. 7,501,119	:	DECISION ON APPLICATION
Issue Date: March 10, 2009	:	FOR RECONSIDERATION OF
Application No. 10/881,661	:	PATENT TERM ADJUSTMENT
Filing Date: June 30, 2004	:	
Attorney Docket No. 07039-0520001	:	

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed April 14, 2009. Patentees request the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from three hundred ninety-three (393) days to eight hundred forty-three (843) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application was filed June 30, 2004.

On October 29, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 393 days.[1]

The application matured into United States Patent No. 7,501,119, with a patent term adjustment of 393 days on March 10, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent. The request states a terminal disclaimer has not been filed.

The instant decision adopts the following terminology from the petition:

(A) "A Delays" will refer to delays under 35 U.S.C. § 154(b)(1)(A), and
(B) "B Delay" will refer to delay under 35 U.S.C. § 154(b)(1)(B).

Patentees stated the amount of B Delay is 450 days and requests the patent term adjustment be increased to 843 days (450 days + 393 days).

[1] The patent term adjustment of 393 days was based on 456 days of Office delay reduced by 63 days of applicant delay. A request for reconsideration of this initial determination was not filed.

In this case, a Request for Continued Examination ("RCE") was filed September 22, 2008. Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include the number of days from the date a request for continued examination is filed until the patent is issued.[2] In other words, 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.[3]

A Request for Continued Examination was filed September 22, 2008, which is a date three years and 450 days after the filing date of the application. Therefore, the amount of B delay in the instant case is 450 days.[4]

B Delay will not result in an increase to the extent such delay includes delay that overlaps with A Delays. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentees contend the overlap between the B Delay and A Delays is 0 days. However, the Office contends the overlap is 450 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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

---

[2] *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

[3] [I]f a request for continued examination is filed in an application, the applicant may still accrue patent term adjustment under 35 U.S.C. 154(b)(1)(A) or (C). *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000).

[4] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(ii)-(iii).

> adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[5]

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, June 30, 2004, to the date of filing of the request for continued examination, September 22, 2008. In this case, the 450 days of B delay overlaps with 450 of the 456 days of A delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(1).

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of the Office taking in excess of three years to issue the patent.

The Office recognizes patentee's arguments based on the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (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 * * * and administrative delay under section 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.[6]

In view of the previous discussion, the patent term adjustment set forth on the patent remains 393 days. Therefore, the patent term adjustment on the patent will not be changed.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

---

[5] *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) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

[6] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 061407

Timothy N. Trop
TROP, PRUNER & HU, P.C.
1616 South Voss Road, Suite 750
Houston, TX 77057-2631

Appl No.: 10/881,664	:	
Inv: Dennison	:	**DECISION ON PETITION**
Filed: June 30, 2004	:	**UNDER** *37 CFR 1.181*
For: Initializing Phase Change Memories	:	

This is a decision on the applicant's "Petition to The Technology Center Director" based under 37 CFR 1.181 filed May 31, 2007. The petition has been converted into a "Petition to Reconsider the Grounds for Restriction" wherein the restriction in question was mailed on January 29, 2007 and required the election between two species. The applicant requests that the Restriction Requirement be reconsidered, as it is improper for not identifying the specific claims in each species of the restriction.

After a careful review of the file and for the reasons, which follow, the petition has been **granted**.

After a review of the claims in question, the two "species" in question do not have a mutually exclusive feature that is required under the MPEP § 806.04(f).

However, as to applicant taking issue to the Examiner's lack of specifying the claims in referring to the species, the applicant's statements are unpersuasive and contrary to current United States Patent Office practice as outlined in the MPEP. Upon making a valid species restriction, the examiner is not to refer to the species with claims but with Figures or equivalence. The Examiner provides the applicant with the two

species using the Figures and delineates the mutually exclusive feature. Receiving a valid species restriction the applicant is required to elect the species to prosecute and provide a listing of the claims the applicant believes reads on the elected species. MPEP in §809.02(a) states that "To be complete, a reply to a requirement for restriction made according to this section should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added." Therefore, clearly upon making a valid species restriction, there is a burden placed upon the applicant in the reply to provide a listing of the claims readable on the elected species.

The restriction requirement of January 29, 2007 has been withdrawn and file forwarded to the Examining Corps for further action.

Matthew S. Smith

Supervisory Primary Examiner AU 2823

Technology Center 2800

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Lawrence Cruz
Conair Corporation
One Cummings Point Road
STAMFORD CT 06902

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SEP 18 2008

In re Application of	:	
Howard I. Steinberg, et al.	:	
Application No. 10/881,693	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 2044/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 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 9, 2007. The Notice of Abandonment was mailed November 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; 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 3742 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

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DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29601

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OFFICE OF PETITIONS

In re Application of	:	
Boyd et al.	:	
Application No. 10/881,697	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. KCX-845 (19951)	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed January 24, 2005, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from **Renee J. WIEMERI** to **Renee J PEARSON.**

Petitioner submitted a $170.00 check for payment of the petition fee. However, the petition fee is $400.00. Accordingly, an additional $230.00 will be charged to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 2100 for examination on the merits.

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

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

Enclosure: Corrected Filing Receipt

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Paper No.

APR 2 1 2006

Technology Center 2100

Clark A. Jablon
AKIN GUMP STRAUSS HAUER &
FELD LLP
One Commerce Square
2005 Market Street – Suite 2200
Philadelphia, PA 19103

In re Application of:
Paul Holenstein et al.
Application No. 10/881,699
Filed: June 30, 2004
For: METHOD FOR ENSURING REFERENTIAL INTEGRITY IN MULTI-THREADED REPLICATION ENGINES

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. ∋1.102(c) AND MPEP ∋708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed July 19, 2005, under 37 C.F.R. ∋1.102(c) and M.P.E.P. ∋708.02(IV): Applicant's Age, to make the above-identified application special.

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

The petition includes a Declaration and copy of the driver's license of Wilbur H. Highleyman establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

James R. Matthews
for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3613

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Thelen, Reid, Brown, Raysman & Steiner, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
Evan Robinson	:	
Application No. 10/881,730	:	DECISION ON PETITION
Filed: June 29, 2004	:	TO WITHDRAW
Attorney Docket No. 017887-013310US	:	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 29, 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 Philip H. Albert and all attorneys/agents of record have been revoked by the assignee of the patent application on February 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Yahoo! Inc.
c/o Ostrow Kaufman & Frankl LLP
The Crysler Building
405 Lexington Avenue, 62nd Floor
New York, NY 10174

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
HIRSCHMAN, Edward et al.	:	
Application No. 10/881,759	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. **449-121**	:	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 02, 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 GIBSON & DERNIER LLP has been revoked by the assignee of the patent application on November 25, 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/
Petitions Examiner
Office of Petitions

cc: **KAPLAN GILMAN & PERGAMENT LLP**
1480 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 06/25/2010

Applicant	: Edmund Hulin James III	: DECISION ON REQUEST FOR
Patent Number	: 7661791	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/881,764	: 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 **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LOCKHEED MARTIN C/O
DEMONT & BREYER, LLC
100 COMMONS WAY, STE. 250
HOLMDEL NJ 07733

In re Application of	:	
Arthur **ACAMPORA, JR.** et al.	:	
Application No. 10/881,786	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 711-027US	:	

This is a decision on the petition, filed April 27, 2009 and supplemental petition filed October 23, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Panel Decision mailed August 22, 2008. A Notice of Abandonment was mailed on April 15, 2009.

Petitioner asserts that the Office action dated August 22, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 2437 for re-mailing the Office action of August 22, 2008. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,618,820	:	
Sherman et al.	:	DECISION ON REQUEST FOR
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/881,802	:	
Filed: June 30, 2004	:	
Atty Docket No. 1671-0304	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d) AFTER PATENT ISSUANCE," filed January 14, 2010. Patentee requests review of the Patent Term Adjustment (PTA) determined for the above-identified patent.

The request is **DISMISSED**.

Patentee is given **one (1) month or thirty (30) days**, whichever is longer, to respond to this decision. No extensions of time will be granted under § 1.136(a).

Patentee is advised that § 1.705(d) provides the avenue before the Office for requesting reconsideration of the revised patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, pursuant to § 1.705(b), this section requires payment of:

> (1) The fee set forth in § 1.18(e) ...

The instant paper was timely filed within two months of the issuance of the patent. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. As payment of the fee is a prerequisite to consideration of the request for reconsideration of patent term adjustment, this authorization is insufficient. It does not freely authorize payment prior to consideration.

Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e).

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

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

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

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

Correspondence may also be submitted electronically via EFS-Web.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Patent No. 7,618,820	: DECISION ON REQUEST FOR
Sherman et al.	: RECONSIDERATION OF
Issue Date: November 17, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/881,802	: AND
Filed: June 30, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 1671-0304	: CERTIFICATE OF CORRECTION

This is in response to the communication filed on June 29, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-one (1491) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred ninety-one (1491) days is **GRANTED**.

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 Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred ninety-one (1491) days**.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Day : Monday
Date: 7/12/2010

PALM INTRANET

Time: 06:43:11

PTA Calculations for Application: 10/881802			
Application Filing Date:	06/30/2004	PTO Delay (PTO):	934
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	49
Post-Issue Petitions:	0	Total PTA (days):	1491
PTO Delay Adjustment:	606		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	07/07/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	606		
72.5	10/28/2009	PTA 36 MONTHS			
72	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
71	10/09/2009	EXPORT TO FINAL DATA CAPTURE			
70	10/08/2009	DISPATCH TO FDC			
69	10/08/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
68	10/08/2009	CORRESPONDENCE ADDRESS CHANGE			
67	09/30/2009	ISSUE FEE PAYMENT VERIFIED			
66	09/30/2009	WORKFLOW - DRAWINGS FINISHED		49	
65	09/30/2009	ISSUE FEE PAYMENT RECEIVED			
64	08/07/2009	FINISHED INITIAL DATA CAPTURE			
63	07/03/2009	EXPORT TO INITIAL DATA CAPTURE			
60	06/30/2009	MAIL NOTICE OF ALLOWANCE			
59	06/30/2009	ISSUE REVISION COMPLETED			
58	06/25/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	06/25/2009	DOCUMENT VERIFICATION			
56	06/25/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	06/25/2009	CASE DOCKETED TO EXAMINER IN GAU			
54	06/17/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	06/22/2009	EXAMINER'S AMENDMENT COMMUNICATION			
52	06/22/2009	NOTICE OF ALLOWABILITY			
50	04/17/2009	APPEAL BRIEF REVIEW COMPLETE			

49	04/17/2009	DATE FORWARDED TO EXAMINER			
48	03/30/2009	APPEAL BRIEF FILED			
47	02/05/2009	NOTICE OF APPEAL FILED			
46	11/06/2008	MAIL FINAL REJECTION (PTOL - 326)			
45	11/05/2008	FINAL REJECTION			
42	09/20/2008	DATE FORWARDED TO EXAMINER			
41	08/28/2008	RESPONSE AFTER NON-FINAL ACTION			
40	05/28/2008	MAIL NON-FINAL REJECTION			
39	05/27/2008	NON-FINAL REJECTION			
38	06/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	12/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	01/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	05/16/2008	DATE FORWARDED TO EXAMINER			
30	04/23/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
29	04/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
28	03/21/2008	MAIL RESTRICTION REQUIREMENT	934		-1
27	03/17/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
18	10/15/2007	FLAGGED FOR 5/25			
17	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	04/27/2006	CORRESPONDENCE ADDRESS CHANGE			
15	01/17/2006	REFERENCE CAPTURE ON IDS			
14.7	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13.7	12/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/30/2004	REFERENCE CAPTURE ON IDS			
11.7	06/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/21/2004	CASE DOCKETED TO EXAMINER IN GAU			

9	10/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	08/21/2004	APPLICATION RETURN FROM OIPE			
7	08/21/2004	APPLICATION RETURN TO OIPE			
6	08/20/2004	APPLICATION DISPATCHED FROM OIPE			
5	08/23/2004	APPLICATION IS NOW COMPLETE			
4	08/16/2004	CLEARED BY OIPE CSR			
3	08/16/2004	CASE CLASSIFIED BY OIPE			
2	07/25/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/30/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,820 B2

DATED : Nov. 17, 2009 **DRAFT**

INVENTOR(S) : Sherman 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 885 days

Delete the phrase "by 885 days" and insert – by 1491 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VMWARE, INC.
DARRYL SMITH
3401 HILLVIEW AVENUE
PALO ALTO, CA 94304

COPY MAILED
JUL 3 1 2008

In re Application of	:	
WALDSPURGE, Carl A.	:	
Application No. 10/881,817	:	DECISION ON PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **VMware12C1**	:	

This is a decision in response to the petition, filed October 2, 2007, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 22, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and fee as required by the office action mailed December 22, 2006.

The terminal disclaimer filed October 2, 2007 has been entered and made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application.

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

The application file is being referred to Technology Center Art Unit 2188 for consideration of the response filed October 2, 2007

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant	: Carl A. Waldspurger	: DECISION ON REQUEST FOR
Patent Number	: 7620766	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,817	: 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 **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO, CA 94304

Mail Date: 05/17/2010

Applicant : Carl A. Waldspurger
Patent Number : 7620766
Issue Date : 11/17/2009
Application No : 10/881,817
Filed : 06/30/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1042** 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).

MAY 2 3 2005
JC52
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Yunfei Qiao

Title: PROCESS CONTROL METHODS OF ELECTROPOLISHING FOR METAL SUBSTRATE PREPARATION IN PRODUCING YBCO COATED CONDUCTORS

App. No.: 10/881,821 Filed: June 28, 2004

Examiner: Nira S. Birenbaum Group Art Unit: 1742

Atty. Dkt. No. : 1014-SP210-US

COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MPEP § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

Date 5/16/05

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
JUN 1 3 2005

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. 061005

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

JUL 29 2005

In re Application of:	:	
Arvind Srinivasan	:	
Serial No.: 10/881,832	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 29, 2004	:	
Attorney Docket No.: **018685-000500US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 02, 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 David N. Slone, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Melvin Chan, 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: Aka Chan LLP
900 Lafayette Street, Suite 710
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOMENTIVE PERFORMANCE MATERIALS INC.
IP LEGAL
ONE PLASTICS AVENUE
BLDG. 51
PITTSFIELD MA 01201-3697

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Cruse et al.	:	
Application No. 10/881,839	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. US 142870-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 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 27, 2009. A Notice of Abandonment was mailed October 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This application is being referred to Technology Center AU 1621 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Leo G. Lenna
Dilworth & Barrese, LLP
1000 Woodbury Rd. 4th Fl.
Woodbury, NY 11797

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William D. Gill
IBM Corporation
5600 Cottle Road (L2PA/010)
San Jose CA 95193

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
Biskeborn et al. :
Application No. 10/881,853 : ON PETITION
Filed:June 29, 2004 :
Title: Wear Gauge and Method of Use :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 26, 2007.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 4, 2005. 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 February 5, 2006. A Notice of Abandonment was mailed on March 28, 2006.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance mailed on November 4, 2005. In this regard, the Office received a change of address on August 3, 2005 , prior to the mailing of the Notice of Allowance . Petitioner requested that the correspondence address in the above-identified application be changed to that associated with customer no. 50548. However, customer no. 50648 was entered. As such the Notice was mailed to the improper address.

However further review of the request for change of address, shows that the request was submitted by the assignee without a 37 CFR 3.73(b) statement. Thus the change of correspondence should not have been entered. The correspondence address of record has been returned to the address of record prior to the request made on August

3, 2005. A proper request to change the correspondence address which includes a 37 CFR 3.73(b) statement should be submitted on renewed petition.

Upon the receipt of a proper request to change the correspondence address, the address will be entered and the Notice of Allowance can be re-mailed.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of
Biskeborn et al.
Application No. 10/881,853
Filed:June 29, 2004
Title: Wear Gauge and Method of Use

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 8, 2007.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 4, 2005. 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 February 5, 2006. A Notice of Abandonment was mailed on March 28, 2006.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance mailed on November 4, 2005. In this regard, the Office received a change of address on August 3, 2005 , prior to the mailing of the Notice of Allowance . Petitioner requested that the correspondence address in the above-identified application be changed to that associated with customer no. 50548. However, customer no. 50648 was entered. As such the Notice was mailed to the improper address.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn

This application is being forwarded to Art Unit 2856 for re-mailing of the Notice of Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Notice of Allowance.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Benyu Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7594277	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,867	: 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 **937** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Benyu Zhang
Patent Number : 7594277
Issue Date : 09/22/2009
Application No : 10/881,867
Filed : 06/30/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **978** 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

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AUG 2 3 2005

TECHNOLOGY CENTER 3600

RUDEN, MCCLOSKY, SMITH, SCHUSTER &
RUSSELL, P.A.
P.O. Box 1900
Fort Lauderdale, FL 33301

In re application of
Nancy C. Bordan
Application No. 10/881,885
Filed: June 30, 2004
For: NOVELTY CUSHION

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 07, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Stanley A. Kim, Ph.D., Esq. does not now have, and apparently never has had, power of attorney in this application. A submission of June 30, 2004 Utility Patent Application Transmittal form designates customer number 20822 as a correspondence address only, therefore Power of Attorney has not been given to anyone by the inventor.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6618

SNM/pav: 08/05/05

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STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington NY 11743

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OFFICE OF PETITIONS

In re Application of :
Jakob, et al. :
Application No. 10/881,914 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 3057 :
For: CONTROL DEVICE WITH
BLOCKABLE ATTACHMENT PLACES

This is a decision on the petition, filed May 25, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not properly signed. Any requests for reconsideration should be submitted within two (2) months of the mailing of this decision. No additional petition fee will be due when petitioners file a reconsideration petition.

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 S-signed by Michael J. Striker. The S-signature is not acceptable because a registration number is missing (37 CFR 1.4(d)(2)(ii)) and the signer's name is not presented in printed or typed form preferably immediately below or adjacent the S-signature. (37 CFR 1.4(d)(2)(iii)(A)).

In any reconsideration petition, applicants are encouraged to file another copy of the petition properly signed.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington NY 11743

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DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
Jakob, et al. :
Application No. 10/881,914 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 3057 :
For: CONTROL DEVICE WITH
BLOCKABLE ATTACHMENT PLACES

This is a decision on the reconsideration petition, filed October 12, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 11, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 12, 2007. A Notice of Abandonment was mailed on May 14, 2007.

Applicants have submitted an amendment in reply to the October 11, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the October 11, 2006 non-final Office action, and the $1,500.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3632 for consideration of the amendment filed on May 25, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID P. KELLEY
3822 COURTYARD DRIVE
ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Patent No. 6,875,040 :
Issued: April 5, 2005 :
Application No. 10/881,918 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket Number: 40301-1010 :

This is a decision on the petition, filed April 5, 2006, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that due to a clerical error, the incorrect name of the assignee was provided on the Fee(s) Transmittal form PTOL-85(b). Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee on the front page of the Letters Patent.

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

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

A request for certificate of correction (and fee) as required by 3.81(b) was filed July 13, 2006 and dismissed in a decision mailed August 10, 2006 since the request was not accompanied by a petition under 37 CFR 3.81.

---

[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that PIRANHA PLUGS, LLC is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH GAMBRELL & RUSSELL
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Harold Toy Muller-Thym Jr.	:	
Application No. 10/881,931	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. 045424.001	:	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 August 31, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

This application is being referred to Technology Center AU 1761 to await a reply to the final Office action mailed December 8, 2005.

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

Denise Pothier
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

In re Application of Katja Huy, et al. Application No. 10/881,932 Filed: June 30, 2004 Attorney Docket No. 2000.110200	: : : : :	ON PETITION

This is a decision in response to the petition, filed December 8, 2008, to revive the above-identified application under the provisions of 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 Notice of Abandonment was mailed on October 1, 2008. On December 8, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amended Appeal Brief; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the response filed December 8, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of
Katja Huy et al
Application No. 10/881,932
Filed: June 30, 2004
Attorney Docket No. 2000.110200

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed April 17, 2009.

The request is **DISMISSED**.

Applicant contends that the Notice of Non-Compliant Appeal Brief received February 22, 2008 was generated because the Examiner believed that the response to the final Office action included new claim amendments, and that the amendments were just a copy of the amendments made in the earlier response to the first office action. Applicants further states that on October 14, 2008, examiner Miller instructed applicant to pay the fee to revive the application but that applicant could later petition for a refund of the fee based on the fact that applicant complied with all the instructions that were received from the USPTO and were not given any notice that applicant had failed to comply with any requirements.

Applicant's attention is directed to the below:

The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c). **See 37 CFR 1.116(c).**

MPEP 711.03 (c) reads:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

37 CFR 1.2 reads:

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.**

It is noted that applicant could have filed a Petition To Withdraw Holding Of Abandonment under 37 CFR 1.181(no fee).

In view of the above, the request for refund of the $1,620.00 petition fee submitted on December 8, 2008 is dismissed.

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY, PC
P/O/ BOX 770/CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JUL 0 8 2008

OFFICE OF PETITIONS

In re Application of
GOLLA, et al.
Application No. 10/881,935
Filed: June 30, 2004
Attorney Docket No. **20910/0205432-US0**

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 April 18, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **SUN MICROSYSTEMS, INC. c/o DARBY & DARBY, PC** has been revoked by the assignee of the patent application on July 3, 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: **OSHA LIANG LLP/SUN**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

Mail Date: 04/21/2010

Applicant	: Jim Boyd	: DECISION ON REQUEST FOR
Patent Number	: 7654267	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,946	: 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 **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTEL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Vinoo N. Srinivasan et al	:	
Application No. 10/881,954	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. 42P12454D	:	

This is a decision on the petition filed October 9, 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 June 29, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 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.

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

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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DILLON & YUDELL LLP
Suite 2100
8911 North Capital of Texas Highway
Austin, TX 78759

Mail Date: 04/21/2010

Applicant	: Steven Edward Atkin	: DECISION ON REQUEST FOR
Patent Number	: 7647581	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,969	: 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 **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Haverstock & Owens, LLP
162 North Wolfe Road
Sunnyvale, CA 94086

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Girish Upadhya, et al.	:	
Application No. 10/881,980	:	ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. COOL-00303	:	

This is a decision on the petition under 37 CFR 1.182, filed August 9, 2004, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors has been changed as follows:

1. Girish Upadhya
2. Thomas W. Kenny
3. Peng Zhou
4. Mark Munch
5. James G. Shook
6. Kenneth Goodson
7. David Corbin

This application 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) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Joel Mark Studtmann	: DECISION ON REQUEST FOR
Patent Number	: 7630319	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/881,984	: 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 **1170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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NOV 16 2005

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

In re Application of:	:	
ARVIND SRINLVASAN et al.	:	
Serial No.: 10/882,003	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 29, 2004	:	
Attorney Docket No.: **018685-000400US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 02, 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 David N. Slone, on behalf of himself and all the attorneys/agents associated with customer number 20350.

The request is **APPROVED**.

All future communications from the Office will be directed to Melvin Chan, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MELVIN CHAN
AKA CHAN LLP
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-14-06

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882013 Patent No.: 7102121

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

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

Please check Drawings

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: None

Georgia Y Epps

SPE

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Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 7/24/2009
Patent No.	: 6,900,714 B1
Serial No.	: 10/882,024
Inventor(s)	: Huang et al.
Issue Date	: May 31, 2005
Title	: **SYSTEM AND METHOD FOR QUENCH AND OVER-CURRENT PROTECTION OF SUPERCONDUCTOR**
Doc./File No.	: **149741-1/YOD (GERD:0148)**

Re: Certificate of Correction (Reconsideration)

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

Respecting, the alleged error(s) in your request, in claim 15, column 8, line 55, is/re printed in accordance with the record in the office, since no requests or objections were made prior to the payment of the issue fee, no correction is in order here. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, including the current fee of 100.00.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON TX 77269-2289

ecw

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

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Zhou :
Application No. 10/882,046 : DECISION
Filed: 30 June, 2004 :
Attorney Docket No. 04-122 :

This is a decision on the petition filed on 4 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 May, 2008, with reply due absent extension of time on or before 30 August, 2008.

The application went abandoned by operation of law after midnight 30 August, 2008.

The Office mailed the Notice of Abandonment on 27 February, 2009 (the Notice misstated the mail date of the Office action as "30 March, 2008").

On 4 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment, and made a statement of unintentional delay.

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

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

[2] 35 U.S.C. §133 provides:

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

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1616 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

Mail Date: 04/20/2010

Applicant	: Peter Daniel Birk	: DECISION ON REQUEST FOR
Patent Number	: 7634803	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,053	: 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 **1184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Peter D. Wendt :
Application No. 10/882,055 : DECISION REFUSING STATUS
Filed: June 30, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. SONY 3.0-056 CONT CIP 1 :
For: **METHOD TO ENSURE TEMPORAL SYNCRONIZATION AND REDUCE COMPLEXITY IN THE DETECTION OF TEMPORAL WATERMARKS**

This is a decision on the petition under 37 CFR 1.47(b), filed February 7, 2005.

The petition under 37 CFR 1.47(b) 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(b).

The above-identified application was filed on June 30, 2004, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on October 19, 2004, requiring, among other items, an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on February 7, 2005, responsively, along with a request for an extension of time within the second month.

A grantable petition under 37 CFR 1.47(b) 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,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) as set forth above.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47(b) that provides as follows:

> (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 declaration filed with instant petition is not made on behalf of the non-signing inventor as there is no signature block for the non-signing inventor identifying his address and citizenship.

In the case of a non-signing sole inventor, the oath or declaration must contain a signature block for the non-signing inventor providing all of the information required by 37 CFR 1.63 followed by the signature of the person authorized to sign the declaration by the 37 CFR 1.47(b) applicant. Any renewed petition filed must be accompanied by a declaration meeting this requirement.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lerner, David, Littenberg
Krumholz & Mentlik
600 South Avenue West
Westfield, NJ 07090

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OFFICE OF PETITIONS

In re Application of
Peter D. Wendt
Application No.: 10/882,055
Filed: June 30, 2004
Attorney Docket No: SONY3.0-056 CONT CIP 1
For: METHOD TO ENSURE TEMPORAL SYNCRONIZATION AND REDUCE COMPLEXITY IN THE DETECTION OF TEMPORAL WATERMARKS

DECISION ACCORDING STATUS UNDER RULE 47(b)

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

The decision dismissing the petition mailed March 23, 2005, is **vacated.**

The petition is **GRANTED**.

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

The above-identified application was filed on June 30, 2004, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Non-provisional Application" (The "Notice") was mailed on October 19, 2004, requiring, among other items, an executed oath or declaration and a surcharge for the late filing of the oath or declaration The instant petition was filed on February 7, 2005, along with a request for an extension of time within the second month.

By the instant petition evidentiary documents, petitioner has established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

The requirements of 37 CFR 1.47(b) have been satisfied in view of the supplemental declaration filed March 21, 2005.

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 forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Patent Department – 53051
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

MAILED

AUG 2 6 2005

Technology Center 2100

In re Application of:
David AUERBACH
Application No. 10/882,057
Filed: June 30, 2004
For: SYSTEMS AND METHODS FOR PERFORMING A DIRECTORY SEARCH

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed March 10, 2005.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 25, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Fenwick & West, LLP as the attorneys of record of the instant application. The Power Of Attorney of April 25, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Fenwick & West, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

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

cc: Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/21/2010

Applicant	: Jim McKeeth	: DECISION ON REQUEST FOR
Patent Number	: 7627568	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/882,087	: 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 **279** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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NEW YORK NY 10017

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of
Terry Roemer et al.
Application No. 10/882,104
Filed: June 29, 2004
Attorney Docket No. 10182-033-999

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed December 2, 2004, requesting that the "Notice Of Omitted Item(s) in a Nonprovisional Application" (Notice) mailed November 10, 2004, in the above-identified application be withdrawn. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed June 29, 2004. However, on November 10, 2004, the Office of Initial Patent Examination mailed the "Notice" stating that the application had been accorded a filing date of June 29, 2004, and advising applicant that a drawing of Figure 6 described in the specification appeared to have been omitted.

In response, petitioner argues that seven (7) sheets of drawings including Figures 1-6 was filed upon application. In support, the petition is accompanied by a copy of petitioner's postcard receipt acknowledging receipt of seven sheets of drawings including Figures 1-6 on June 29, 2004. The petition is also accompanied by seven sheets of drawings.

The argument and evidence supplied with the petition have been carefully considered, but are not totally persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). A review of the evidence presented however, shows the total number of Figures on those sheets totals 10 and are labeled as follows: Fig 1, Fig 2A, Fig 2B, Fig 3, Fig 4, Fig 5, Fig 6A, Fig 6B, Fig 6C, Fig 6D. The postcard receipt therefore has not been properly itemized and the specification and the drawings are not consistent.

The replacement drawings submitted October 26, 2004 in response to the Notice to File Missing Parts is consistent with the drawings submitted upon petition, there is no

variation. As indicated above the drawings are simply not consistent with the specification and post card receipt.

However, the figures are still mislabeled as a result of applicant's filing error and an amendment to the specification with respect to Figures 2 and 6 should be filed prior to the first Office Action in order to avoid future delays in the prosecution of the application. The specification should cancel references to Figures 2 and 6 and identify the figures as Fig 1, Fig 2A, Fig 2B, Fig 3, Fig 4, Fig 5, Fig 6A, Fig 6B, Fig 6C, Fig 6D.

The petition fee in the amount of $130 will not be refunded since it appeared that Figure 6 had been omitted.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 29, 2004, using the seven sheets of drawings filed on that date.

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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P O BOX 61389
HOUSTON, TX 77208-1389

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FEB 03 2006

OFFICE OF PETITIONS

In re Application of	:
Jingfei Ma et al	:
Application No. 10/882,111	: DECISION GRANTING PETITION
Filed: June 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 051715.000007	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2859 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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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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JUN 2 0 2008

In re Application of :
Birk, et al. :
Application No. 10/882,118 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. AUS920041034US1 :
For: METHOD AND APPARATUS FOR HANDLING CUSTOM TOKEN PROPAGATION WITHOUT JAVA SERIALIZATION

This is a decision on the petition under 37 CFR 1.181, filed April 9, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the September 28, 2007 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on December 29, 2007. A Notice of Abandonment was mailed on April 3, 2008.

Petitioners allege that the September 28, 2007 non-final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

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.
2. 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]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket records where the requirement would have been entered had the September 28, 2007 non-final Office action been received. In addition, practitioner referenced the docket records in the petition and stated that a review of the application's file jacket and docket records for the September 28, 2007 non-final Office action was fruitless.

Petitioners have established non-receipt. The petition is **granted,** the holding of abandonment is withdrawn, and the April 3, 2008 Notice of Abandonment is vacated.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2139 to re-mail the September 28, 2007 non-final Office action with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No. 10882118

10882118

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: BRANTLEY, SHIRENE WILLIS

Count (1) - Palm Credit 10/882,118

Decision Type: 525 - 37 CFR 1.181 for W/D HOLDING OF ABANDONMENT

Decision: GRANT

Time Period for Reply: n/a

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JUN 2 0 2008

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

_____ Initials of Approving Official (if required)

Printed on: *6/13/08*

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One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of Willman et al. Application No. 10/882,134 Filed: June 30, 2004 Attorney Docket No. MSFT-3013/305832.01	DECISION GRANTING PETITION

This is a decision on the petition filed September 17, 2004, requesting that the above-identified application be accorded a filing date of June 30, 2004.

On June 30, 2004, applicants deposited the above-identified application. On August 23, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items. Additionally, the Notice stated that the signatures of inventors Willman, LaSalle and Jacomet were missing from the declaration.

In response, on September 17, 2004, applicants filed the present petition, the petition fee, a declaration executed by inventors Willman, LaSalle and Jacomet, 5 sheets of drawings, and a date-stamped postcard receipt. The postcard acknowledged receipt of "5 Sheets of formal drawings comprising Figures(s) 1, 2, 3, 4, 5, 6" on June 30, 2004.

Upon review of the record, 5 sheets of drawings, deposited on June 30, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 30, 2004, included 5 sheets of drawings, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the

application, including the 5 sheets of drawings, was complete on filing and will be granted a filing date of June 30, 2004.

Accordingly, the petition is granted.

The requirement to submit drawings set forth in the Notice of August 23, 2004, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 23-3050.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of June 30, 2004, using the 5 sheets of drawings submitted on petition, and to mail a corrected filing receipt. The Office records should indicate that 5 sheets of drawings were submitted on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 10/882,137
Filed: 06-29-2004
Attorney Docket No. 00939H-088200US

DECISION ON PETITION

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

On August 23, 2005, the Office mailed a Restriction Requirement, which set a one-month extendable period to reply. In the apparent absence of a timely filed response, the application became abandoned on September 24, 2005. On June 4, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they filed a timely response to the Restriction Requirement. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of, *inter alia*, a Response to Restriction Requirement on September 26, 2005.

Upon reviewing the record, the Response was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the Response on September 26, 2005. See MPEP 503. The copy of the Response contained a certificate of mailing dated September 23, 2005. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the Response on September 23, 2005.

"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." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand

knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

Petitioners did not provide a statement attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing (e.g., a statement by Cynthia McKinley, the person who signed the certificate). Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Before the Office can withdraw the holding of abandonment, petitioners must submit a request for reconsideration and a statement in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By EFS-WEB:	Attn: Office of Petitions

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

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/882,137	:	DECISION ON PETITION
Filed: 06-29-2004	:	
Attorney Docket No. 00939H-088200US	:	

This is decision on the renewed petition under 37 CFR 1.181, filed September 10, 2007, 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.

On August 23, 2005, the Office mailed a Restriction Requirement, which set a one-month extendable period to reply. In the apparent absence of a timely filed response, the application became abandoned on September 24, 2005. On June 4, 2007, the Office mailed a Notice of Abandonment.

Petitioners asserted that they filed a timely response to the Restriction Requirement. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of, *inter alia*, a Response to Restriction Requirement on September 26, 2005.

Upon reviewing the record, the Response was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the Response on September 26, 2005. See MPEP 503. The copy of the Response contained a certificate of mailing dated September 23, 2005. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the Response on September 23, 2005.

"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." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand

knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

On renewed petition, petitioners provided a statement from Cynthia McKinley, the person who signed the certificate, attesting to her personal knowledge of the mailing of the original correspondence on the date indicated on the certificate of mailing. Accordingly, the petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that petitioners filed a timely response to the Restriction Requirement.

This matter is being referred to Technology Center Art Unit 2824 for further action on the reply.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
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	: Soo-han Park	: DECISION ON REQUEST FOR
Patent Number	: 7586826	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,154	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **939** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Mail Date: 04/26/2010

Applicant	: Franco Arcieri	: DECISION ON REQUEST FOR
Patent Number	: 7593901	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/882,155	: 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 **1158** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of :
Giuseppe Simonazzi :
Application No. 10/882,160 : DECISION ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. SIMONAZZ12 :

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**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 13, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 14, 2006. A Notice of Abandonment was mailed on March 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of September 13, 2006 is accepted as being unintentionally delayed.

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

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3611 for appropriate action in the normal course of business on the reply received March 27, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Sun et al.	:	
Application No. 10/882,200	:	DECISION ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. MR1035-1517	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed August 5, 2008. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on January 6, 2009. A Notice of Abandonment was mailed February 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3739 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of
Hiroshi Itokawa et al.
Application No. 10/882,203
Filed: July 2, 2004
Attorney Docket No. 256508US2SX

ON PETITION

This is a decision on the petition filed March 14, 2006 to withdraw the holding of abandonment which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned October 17, 2005 for failure to file a timely response to the non-Final Office Action mailed July 14, 2005. Accordingly, a Notice of Abandonment was mailed March 13, 2006.

Petitioner claims that the Office Action mailed July 14, 2005 was never received and that the Office Action was mailed to an incorrect address. Petitioner's argument is based on the fact that the Oath filed January 10, 2005 properly indicated the correct address but instead the USPTO mailed it to the Attorneys who filed the application.

A review of the file reveals that petitioners are in fact correct. While Finnegan, Henderson, Farabow, Garret & Dunner, LLP filed the application, the oath filed January 10, 2005, in response to the Notice to File Missing Parts mailed September 8, 2004, properly indicated that the Oblon Spivac firm had the power of attorney and thus provided the Oblon Spivac customer number for all correspondence. The power of attorney was apparently acknowledged but the address information was not updated by the USPTO prior to the mailing of the non-Final Office Action on July 14, 2005. Thus, the non-Final Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 2826 for the re-mailing of the non-Final Office Action originally mailed on July 14, 2005. Telephone inquiries concerning the re-mailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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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Commissioner for Patents
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P.O. Box 1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

APR 20 2006

Technology Center 2100

In re Application of: ENKO, et al.
Application No. 10/882,244
Filed: July 2, 2004
For: NETWORK PROTOCOL PROCESSING DEVICE

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on July 15, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Kengo Inoue et al :
Application No. 10/882,260 : ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. 042533

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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 P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Jun Koyama
Application No. 10/882,287
Filed: July 2, 2004
Atty Docket No.: 12732-079002

ON PETITION

This is a decision on the petition, filed November 30, 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, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN F. HAYDEN
FISH AND RICHARDSON, P.C.
1425 K STREET, NW, 11TH FLOOR
WASHINGTON, DC 20005-3500

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

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Oren Malerevich	: DECISION ON REQUEST FOR
Patent Number	: 7599361	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Borge Windel Kringelum, et al.	:	
Application No. 10/882,326	:	DECISION ON PETITION
Filed: July 2, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 58982.000033	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment. However, the amendment is not acceptable as

drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement to nonprovisional application No. 09/847,885 filed May 1, 2001 are required.

A Corrected Filing Receipt was mailed on February 7, 2005, reflecting the amendment to the claim for priority. In view of the improper amendment to the specification, it was sent in error. Another Corrected Filing Receipt will be issued upon the filing of a renewed petition and a proper substitute amendment.

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

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[1] *Note* 37 CFR 1.121

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

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

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

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

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

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SUITE 1200
WASHINGTON, DC 20006-1109

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In re Application of	:
Borge Windel Kringelum, et al.	: DECISION ON PETITION
Application No. 10/882,326	: UNDER 37 CFR 1.78(a)(3)
Filed: July 2, 2004	:
Attorney Docket No. 58982.000033	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on September 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application set forth in the concurrently filed amendment. Counsel's deposit account is being credited $1370, since a petition fee was inadvertently charged for the renewed petition under 37 CFR 1.78(a)(3).

The petition is **GRANTED**.

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

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

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition satisfies all of the above identified requirements.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. §§ 120, 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 1637 for consideration by the Examiner of the amendment filed September 16, 2005, including applicant's claim under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed PCT application.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 10/882,343	: DECISION GRANTING PETITION
Filed: July 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7349	:

This is a decision on the petition, filed September 13, 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 August 10, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 10/882,343	: DECISION GRANTING PETITION
Filed: July 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7349	:

This is a decision on the petition, filed April 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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 Shunpei Yamazaki et al Application No. 10/882,343 Filed: July 2, 2004 Attorney Docket No. 0756-7349	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2814 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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Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
SHIROGANE et al
Application No. 10/882,366
Filed: July 02, 2004
For: STORAGE APPARATUS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on July 28, 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.

> 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 of July 28, 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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JUN 07 2004

FRED STERZER
MMTC, INC.
SUITE A-203
12 ROSZEL ROAD
PRINCETON NJ 08540

In re Application of	:	
Fred Sterzer et al.	:	
Serial No.: 10/882,367	:	DECISION ON PETITION
Filed: April 12, 2004	:	
For: **BALLOON CATHETER DESIGNS**	:	
.... TISSUE OF A PATIENT	:	

This is in response to applicants' petition filed April 12, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director,
Technology Center 3700/2900

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In re Application of: Harman, Jayden David Serial No.: 10/882,412 Filed: Jun. 30,2004 Docket: PA2780US Title: FLUID FLOW CONTROLLER	DECISION ON PETITION

This is a decision on the petition filed on Dec. 17, 2007 seeking to strike the examiner's answer of Oct. 24, 2007 or re-open prosecution. This petition is being considered pursuant to 37 CFR §1.181. No fee is required for this petition. Any petition fee paid shall be refunded upon receipt of a separate request.

The petition is **dismissed**.

In the petition, petitioner requests that the examiner's answer of Oct. 24, 2007 be stricken from the application or, in the alternative, prosecution be reopened because the attorney of record did not receive the examiner's answer of Oct. 24, 2007 as supported by an affidavit.

The record shows that:

1) On Sep. 22, 2006, the appellant filed an appeal brief, appealing claim 40 in view of the final rejection of Jun. 6, 2006.
2) On Jan. 9, 2007, the examiner issued an examiner's answer responding to the appeal brief of Sep. 22, 2006.
3) On Mar. 8, 2007, the Appeal Center returned the examiner's answer of Jan. 9, 2007 for formality deficiencies.
4) The appellant filed a reply brief on Mar. 9, 2007.
5) On Oct. 24, 2007, the examiner issued another examiner's answer to correct the deficiency noted by the Appeal Center without responding to the pending reply brief of Mar. 9, 2007 (as indicated at the bottom of page 1 of the examiner's answer).
6) The Appeal Center on Nov. 8, 2007, again returned the examiner's answer of Oct. 24, 2007 for formality deficiencies.
7) On Dec. 17, 2007, the current petition was filed to strike the examiner's answer of Oct. 24, 2007 or to re-open prosecution.

8) On Jan 14, 2008, the examiner issued another examiner's answer to correct deficiencies on the examiner's part and withdraw the previous two examiner's answer (see the bottom of page 1 of the examiner's answer).
9) On Feb. 2, 2008, the Appeal Center approved the last examiner's answer mailed Jan. 14, 2008 and required the examiner to acknowledge all IDS statements previously filed by the applicants.
10) On Feb. 13, 2008, the examiner acknowledged the IDS statements filed by the applicant.

Discussion and Analysis

A review of the record shows that the examiner had to provide a twice corrected examiner's answer to have deficiencies corrected. The late discovery of the deficiencies is regretted.

The relief which petitioner seeks cannot be granted because the examiner has withdrawn the examiner's answer of Oct. 24, 2007. Petitioner also requests the examiner to reopen prosecution. However, under M.P.E.P. §1004 it is the Primary Examiner's duty to consider the merits of the claims. Because this application is under appeal, the last examiner's answer of Jan. 14, 2008 appears to be proper. There is no reason to order the reopening of the prosecution.

In summary, and to avoid any confusion, it is noted that the previous two examiner's answers mailed prior to 2008 have been withdrawn by the examiner. The outstanding examiner's answer is the one mailed on Jan. 14, 2008. Under the circumstances, the appellant is given **two months from the date of this petition decision** to file a new reply brief, if necessary, in response to the latest examiner's answer mailed on Jan. 14, 2008.

Conclusion

For the forgoing reasons, the requested relief of striking the examiner's answer of Oct. 24, 2007 is deemed moot because all examiners' answers prior to 2008 have been withdrawn.

The application is being forwarded to the Supervisory Patent Examiner in Art Unit 3753 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR §1.181(f). No extension of time under 37 CFR §1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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In re Application of:
HARMAN, JAYDEN DAVID
Serial No.: 10/882,412
Filed: Jun. 30, 2004
Docket: PA2780US
Title: FLUID FLOW CONTROLLER

DECISION ON PETITION

This is a decision on the petition received on Aug. 6, 2008 seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The petitioner has authorized a charge of the requisite $200.00 petition fee to the Account No. 06-0600.

The petition is dismissed.

The record shows that:

1. An Appeal Brief was filed on Sep. 22, 2006.
2. An Examiner's Answer in response to the Sep. 22, 2006 Appeal Brief was issued on Jan. 9, 2007.
3. On Oct. 24, 2007, another Examiner's Answer in response to the Sep. 22, 2006 Appeal Brief was issued.
4. On Dec. 17, 2007, a petition under 37 CFR 1.181 was filed.
5. On Jan. 14, 2008, another Examiner's Answer in response to the Sep. 22, 2006 Appeal Brief was issued. This Examiner's Answer withdrew the previous Examiner's Answers of Jan. 9, 2007 and Oct. 24, 2007.
6. On Mar. 18, 2008, a petition decision was issued for the Dec. 17, 2007 petition. The Dec. 17, 2007 petition was dismissed.
7. On May 19, 2008, a renewed petition under 37 CFR 1.181 was filed.
8. On Aug. 6, 2008, the present petition requesting suspension of action was filed.

Applicant's request for suspension filed Aug. 6, 2008 fails to set forth good and sufficient reasons to suspend prosecution. In particular, the filing of a petition under 37 CFR 1.181 will not stay Office proceedings. Thus, the renewed petition filed on May 19, 2008 has no bearing on the good and sufficient cause needed to grant a request for a suspension of activity. 37 CFR 1.181(f) states:

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

Accordingly, the request to suspend prosecution or examination, based on the May 19, 2008 petition filed under 37 CFR 1.181, cannot be granted.

Petitioner is entitled to file a request for reconsideration, and any such request must be filed within two months of the date of this decision, pursuant to 37 CFR § 1.181(f). The request for reconsideration should be directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

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

PETITION DISMISSED.

Karen M. Young

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Technology Center 3700

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In re Application of: Harman, Jayden David Serial No.: 10/882,412 Filed: Jun. 30,2004 Docket: PA2780US Title: FLUID FLOW CONTROLLER	DECISION ON PETITION

This is a decision on the renewed petition filed on May 19, 2008 seeking to strike the examiner's answers of Oct. 24, 2007 and January 14, 2008 or re-open prosecution. This petition is being considered pursuant to 37 CFR §1.181. No fee is required for this petition.

The petition is **DENIED**.

In the renewed petition, petitioner requests three points for review: (1) is the renewed petition considered to be timely (2) should the examiner's answers of Oct. 24, 2007 and January 14, 2008 be stricken from the application or, (3) in the alternative, should prosecution be reopened on the basis that there is no statutory, regulatory, or administrative grounds for the filing of supplemental answers?

The record shows that:

1) On Sep. 22, 2006, the appellant filed an appeal brief, appealing claim 40 in response to the final rejection of Jun. 6, 2006.
2) On Jan. 9, 2007, the examiner issued an examiner's answer responding to the appeal brief of Sep. 22, 2006.
3) On Mar. 8, 2007, the Appeal Center returned the examiner's answer of Jan. 9, 2007 for formality deficiencies.
4) On Mar. 9, 2007, the appellant filed a reply brief.
5) On Oct. 24, 2007, the examiner withdrew the first examiner's answer and issued a second examiner's answer in response to the deficiency noted by the Appeal Center, but failed to acknowledge the reply brief of Mar. 9, 2007.
6) The Appeal Center on Nov. 8, 2007, returned the examiner's answer of Oct. 24, 2007 for formality deficiencies.
7) On Dec. 17, 2007, a petition was filed to strike the examiner's answer of Oct. 24, 2007 or to re-open prosecution. A decision dismissing the petition was mailed on Mar. 18, 2008.

8) On Jan 14, 2008, the examiner issued a third examiner's answer to correct deficiencies in the answer and withdrawing the two previous examiner's answers.
9) On Feb. 2, 2008, the Appeal Center approved the last examiner's answer mailed Jan. 14, 2008 and required the examiner to acknowledge all IDS statements previously filed by the applicants.
10) On Feb. 13, 2008, the examiner acknowledged the IDS statements filed by the applicant.
11) On May 19, 2008, a petition for reconsideration of the decision mailed on Mar. 18, 2008 was filed requesting relief of striking the examiner's answers of Oct 24, 2007 and Jan 4, 2008 or to reopen prosecution.

Discussion and Analysis

Petitioner's Point of Review #1
In regards to the petition's first point of review, the renewed petition was filed on May 19, 2008 in response to a "Decision on Petition" mailed March 19, 2008. The latest response is considered timely filed in accordance with 37 CFR 1.181(f).

Petitioner's Point of Review #2
Petitioner's second point of review is that there "is no statutory, regulatory, or administrative basis for the examiner to withdraw an answer and file a new answer." (See page 4, renewed petition filed May 19, 2008.) Petitioner further argues that the Office withdrew the January 2007 [sic] and October 2007 Examiner's Answers "subsequent to the filing of the REPLY BRIEF by the Appellant." (See page 6, renewed petition filed May 19, 2008.) Petitioner's statement, found on page 6 of the renewed petition, that the January 2007 answer was "subsequent" to the filing of the Reply Brief does not reflect the facts found in this application. Appellant's only Reply Brief to date was filed March 9, 2007. So the Examiner's Answer mailed January 9, 2007 was before, not after, the Reply Brief. For the purposes of this decision, the Office will assume the petitioner is referencing the October 2007 and January **2008** Examiner's Answers.

In regards to the question of the Director having the authority to withdraw an Office action, the Office has an obligation "to assure that patents are properly examined, and valid." *BlackLight Power Inc. v. Rogan*, 63 USPQ2d 1534, 1537 (Fed. Cir. 2002). The Office has established practice of correcting errors or problems in Office actions through the process of withdrawal and reissuing a corrected action (see, e.g., M.P.E.P. 706.07(d), (e)). This process does not restrict an applicant's ability to take any appropriate action in response. In the instant application, it is noted that appellant has not filed a Reply Brief in response to the Examiner's Answers of October 2007 or January 2008, but that certainly was one option that appellant might have exercised, if he so chose.

The record does not support petitioner's contention that the withdrawal of the Examiner's Answer was in response to the appellant's Reply Brief. Rather, the withdrawal of the January 2007 and October 2007 Examiner's Answers were made so the examiner could respond to an internal review process. A return to the Technology Center for corrective action on procedural matters is not considered a remand. It is a procedure which has been in effect since November 1, 2000 (see M.P.E.P. 1207.01). The examiner failed on two occasions to provide for an entry in the Examiner's Answer for a "Claims Appendix" (Item #7). This omission did not require any response from

appellant, and certainly should not have impacted any decision about whether to file a Reply Brief or not. Therefore, petitioner's argument that an Examiner's Answer which is non-compliant "is immaterial" is an opinion that has no bearing on the matters under review.

Further, petitioner asserts he "was forced by regulatory requirements ... to make arguments and assertions on the record via its REPLY BRIEF", he supports that statement by citing 37 CFR § 41.41(a), and then goes on to state that the Reply Brief contained arguments and assertions that "have created prosecution history that, absent such a filing, would not have been created."

37 CFR 41.41 (a) (1) reads in pertinent part: "Appellant ***may file*** a reply brief to an examiner's answer within two months from the date of the examiner's answer." (Emphasis added.) There is no support for petitioner's assertion that he was ***forced*** to file a Reply Brief at any point. "May" is a permissive term, not an order or a requirement. Any prosecution history established by appellant was by choice and occurred in response to the very first Examiner's Answer.

Based on this record, there is no impropriety found for issuing any of these corrected Examiner's Answers. The last Examiner's Answer of Jan. 14, 2008 remains in effect as explained in the previous decision mailed on Mar. 18, 2008.

Petitioner's Point of Review #3
In the renewed petition, petitioner argues that the Examiner's Answers of Oct. 24, 2007 and Jan. 14, 2008 contain new arguments. Petitioner apparently considers examiner's answers of Oct. 24, 2007 and Jan. 14, 2008 as "supplemental" examiner's answers, which were mailed in reply to the appellant's Reply Brief of Mar. 9, 2007 under 37 CFR 41.43(a)(1). This is not the case.

Petitioner also argues that no new arguments should be included in a supplemental answer under 37 CFR 41.43 (a) (1). However, the last examiner's answer of Jan. 14, 2008 replaces all prior Examiner Answers (October 24, 2007 and January 9, 2007). It is a corrected examiner's answer, not a supplemental answer. M.P.E.P. § 1207.03 states that new grounds of rejection should be rare, only be added sparingly, and when necessary. It is noted that the examiner's answer of Oct. 24, 2007 does not include any new ground of rejection. Petitioner fails to point out where, or what, were the new arguments in the Examiner's Answer of Jan. 14, 2008. A comparison of the first Examiner's Answer of January 9, 2007 and the latest Examiner's Answer of January 14, 2008 shows no new grounds of rejection.

The petitioner seems to be loosely construing the words "new argument," whereas the applicable rules and MPEP provisions quoted above state that examiners should avoid bringing in new *grounds of rejection* in an Examiner's Answer. Again, the examiner did not add any new grounds of rejection in his January 14, 2008 Examiner's Answer. The grounds of rejection in both the Jan. 14, 2008 answer and the Oct. 24, 2007 answer show that claim 40 is rejected under 35 USC 112 second paragraph (indefiniteness) and 35 USC 102 (anticipation by a single reference). The requested relief to strike the examiner's answer of January 14, 2008 or alternatively to re-open prosecution will not be granted. It should be noted that petitioner has failed to state any definition or support for the concept of "striking" an Office communication. For the purposes of this decision, it has been assumed that petitioner wishes to have these offending communications removed from the official file record.

Filing of Information Disclosure Statements

The record shows applicant has submitted multiple Information Disclosure Statements (IDS) after the mail date of the final rejection on June 6, 2006. These filings omitted the appropriate statement of relevance required under 37 CFR § 1.97(e), however, the examiner has indicated their consideration and has initialed the respective copies of applicant's IDS. Applicant is reminded that, according to MPEP 609, "[c]onsideration by the examiner of the information submitted in an IDS means nothing more than considering the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search." The examiner's initials indicate the reference has been considered whether or not citation is in conformance with MPEP 609 (see footnote on PTO/SB/08A), and an examiner is not prohibited from considering any references at any time that may pertain to the patentability of pending claims. Applicant's future information disclosure statements should be filed in accordance with the provisions of 37 CFR § 1.97 and 1.98 to ensure the examiner's consideration.

Change in Identity of the Real Party in Interest

Petitioner's statement regarding a change to the identity of the real party in interest made in the Appeal Brief and Reply Brief are noted. As the application is now being forwarded to the BPAI for consideration of the appeal, petitioner is reminded to make this correction to ensure the brief is in compliance with the content requirements of the brief (37 CFR 41.37(c)).

Conclusion

Since this application is under appeal, the last Examiner's Answer of Jan 14, 2008 is proper. Appellant has filed only one Reply Brief on Mar. 9, 2007, with the examiner having acknowledged the reply brief in the Office communication mailed Jul 31, 2008. For the reasons as stated above, the requested relief as sought in the renewed petition must be denied.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b). Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED.

for Karen M. Young

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

CARR & FERRELL LLP
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PALO ALTO CA 94303

In re Application of
Jayden David Harman
Application No. 10/882,412
Filed: June 30, 2004
Attorney Docket No.: PA2780US

ON PETITION

This is a decision on the petition filed October 20, 2008 under 37 CFR 1.103(a) requesting a suspension of action in the above noted application so that the application is not transferred to the Board of Patent Appeals and Interferences (BPAI) while the petition to the Director under 37 CFR 1.181 is considered.

The petition is **DISMISSED AS MOOT**.

On February 9, 2009, the BPAI returned the above noted application to the examiner for the consideration of related petitions. This action effectively suspended the transfer of the application from the examiner to the BPAI. Accordingly, petitioner's request is moot. The petition is dismissed.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

Charles Pearson
Director, Office of Petitions

cb/db

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In re Application of	:	
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Charles Pearson
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Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

Charles Pearson
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OFFICE OF PETITIONS

In re Application of
Jayden David Harman
Application No. 10/882,412
Filed: June 30, 2004
Attorney Docket No.: PA2780US

ON PETITION

This is a decision on the petition filed October 20, 2008 under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated August 20, 2008, which refused to strike from the record the Examiner's Answers of October 24, 2007 and January 14, 2008 or re-open prosecution.

The petition to overturn the decision of the Technology Center Director dated August 20, 2008, is **DENIED**[1].

BACKGROUND

A final rejection was mailed on June 6, 2006 in which claims 1, 4, 7-14, 18, 22-23, 35, and 37-44 were rejected under 35 USC 112, second paragraph, and claims 1, 4, 7-14, 16, 19, 22, 24-33, 35, and 37-44 were rejected as being anticipated under 35 USC 102(b).

A Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences was filed August 4, 2006 along with an amendment under 37 CFR 1.116(b) canceling all of the finally rejected claims except claim 40. This amendment was approved for entry on August 28, 2006.

On September 22, 2006, an Appeal Brief was filed and contested the rejections of claim 40.

On January 9, 2007, an Examiner's Answer to the September 22, 2006 Brief was mailed. This Examiner's Answer identified claim 40 as rejected under 35 USC 112, second paragraph, and under 35 USC 102 but omitted the explanations for these rejections in the "Grounds of Rejection" section (section 9) of the Examiner's Answer.

The Appeal Center of the USPTO returned the January 9, 2007 Examiner's Answer to the examiner on March 8, 2007 for the presentation of a concise explanation of the grounds of rejection presented in section 9 of the Examiner's Answer and the addition of a claims appendix. This return for correction occurred internal to the USPTO and without Appellant's knowledge.

A Reply Brief to the January 9, 2007 Examiner's Answer was filed on March 9, 2007.

The explanation required by the Appeal Center was provided and a corrected Examiner's Answer was mailed on October 24, 2007. This corrected Examiner's Answer did not indicate that it was a correction of the erroneous January 9, 2007 Examiner's Answer.

The Appeal Center returned the October 24, 2007 corrected Examiner's Answer to the examiner on November 8, 2007 for the addition of the still missing claims appendix section of the brief. This return for correction occurred internal to the USPTO and without Appellant's knowledge.

On December 17, 2007, a petition was filed requesting that the October 24, 2007 Examiner's Answer be "stricken from the prosecution history of the present application" or that prosecution of the present application be re-opened so that the explanation provided in the Examiner's Answer may be addressed.

The claims appendix required by the Appeal Center was added and another corrected Examiner's Answer was mailed on January 14, 2008. This corrected Examiner's Answer did not indicate that it was a correction of the erroneous October 24, 2007 Examiner's Answer.

On February 4, 2008, the Appeal Center required the examiner to acknowledge all previously filed Information Disclosure Statements, which were acknowledged by the examiner on February 13, 2008.

On March 18, 2008, the December 17, 2007 petition was dismissed and a renewed petition was filed May 19, 2008 requesting that the October 24, 2007 and January 14, 2008 Examiner's Answers be "stricken from the prosecution history of the present application" or that prosecution of the present application be re-opened.

The Reply Brief filed March 9, 2007 was acknowledged by the examiner on July 31, 2008.

On August 20, 2008, the May 19, 2008 renewed petition was denied by the Technology Center Director.

The instant petition was filed October 20, 2008.

On February 9, 2009, the Board of Patent Appeals and Interferences returned the present application for consideration of the instant petition.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 1.116(b)(1) states in pertinent part:

> After a final rejection ... but before or on the same date of filing an appeal: an amendment may be made canceling claims.

37 CFR 41.41(a)(1) states:

> Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer.

37 CFR 41.43(b) states:

> If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

37 CFR 41.50(a) states in pertinent part:

> (1) The Board, in its decision, may affirm or reverse the decision of the examiner in whole or in part on the grounds and on the claims specified by the examiner. The Board may also remand an application to the examiner.
> (2) If a supplemental examiner's answer is written in response to a remand by the Board for further consideration of a rejection pursuant to paragraph (a)(1) of this section, the appellant must within two months from the date of the supplemental examiner's answer exercise one of the following two options to avoid *sua sponte* dismissal of the appeal as to the claims subject to the rejection for which the Board has remanded the proceeding:
> (i) *Reopen prosecution*: Request that prosecution be reopened before the examiner by filing a reply under § 1.111 of this title with or without amendment or submission of affidavits (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. Any amendment or submission of affidavits or other evidence must be relevant to the issues set forth in the remand or raised in the supplemental examiner's answer. A request that complies with this paragraph will be entered and the

application will be reconsidered by the examiner under the provisions of § 1.112 of this title. Any request that prosecution be reopened under this paragraph will be treated as a request to withdraw the appeal.
(ii) *Maintain appeal*: Request that the appeal be maintained by filing a reply brief as provided in § 41.41. If such a reply brief is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the examiner under paragraph (a)(2)(i) of this section.

37 CFR 1.114(d) states:

If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief (§41.37 of this title) or a reply brief (§41.41 of this title), or related papers, will not be considered a submission under this section.

37 CFR 1.59(b) states:

An 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.

MPEP 1207.03 III states in pertinent part:

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

MPEP 724.01 states:

> It is the intent of the Office that the patent file wrapper be as complete as possible insofar as "material" information is concerned. The Office attempts to minimize the potential conflict between full disclosure of "material" information as required by 37 CFR 1.56 and protection of trade secret, proprietary, and protective order material to the extent possible. The procedures set forth in the following sections are designed to enable the Office to ensure as complete a patent file wrapper as possible while preventing unnecessary public disclosure of trade secrets, proprietary material, and protective order material.

OPINION

Petitioner seeks reversal of the Technology Center Director's decision of August 20, 2008, on the grounds that the arguments presented in the corrected Examiner's Answer of October 24, 2007 were improperly made on appeal. Accordingly, petitioner requests that the Office re-open prosecution and render these arguments rejections or that the January 2008 brief and these arguments be "stricken from the record."

In support of these requests, petitioner contends that the decision of the Technology Center Director to present two differing Examiner's Answers without allowing Appellant an opportunity to amend, to present "new arguments" following the filing of an opening and reply brief, and to create prosecution history through presentation of the second Examiner's Answer after the filing of an opening and reply brief constituted an "'arbitrary, capricious' and otherwise discretionary abuse." This contention is not correct.

The decision of the Technology Center Director correctly indicates that new grounds of rejection were not presented in the corrected Examiner's Answer. As noted by petitioner, numerous sections of the January 9, 2007 original Examiner's Answer were removed or revised in the corrected Examiner's Answer of October 24, 2007. However, such correction was necessary to clearly explain the grounds of rejection presented in the original Examiner's Answer as required before the Board of Patent Appeals and Interferences would accept the Examiner's Answer. Since most of the finally rejected claims were canceled by an amendment filed pursuant to 37 CFR 1.116(b)(1) upon filing the Notice of Appeal, the explanation of the grounds of rejection presented in the Final Rejection was revised in section 9 of the corrected Examiner's Answer as necessary to clearly explain the rejection of the single claim remaining on appeal.

Furthermore, the revisions of section 10 of the corrected Examiner's Answer, titled "Response to Argument," merely relate to arguments and do not alter the grounds of rejection presented in section 9 of the corrected Examiner's Answer. Section 10 of the

original Examiner's Answer included various arguments that were substantially copied from the Final Rejection without revision for the numerous claims that were canceled after the final rejection was made. The required presentation of clear and concise arguments relating to the single claim on appeal necessitated revision of the arguments section of the Examiner's Answer to properly account for the canceled claims.

As noted by the Technology Center Director, the grounds of rejection in both the original Examiner's Answer of January 9, 2007 and the corrected Examiner's Answer of October 24, 2007 showed that claim 40 is rejected under 35 USC 112, second paragraph, as being indefinite and under 35 USC 102(b) as being anticipated by Harman (U.S. Patent No. 5,934,877), which grounds of rejection were also presented in the Final Rejection in relation to claim 40. Thus, the basic thrust of the rejection of claim 40 remained the same in the corrected Examiner's Answer as in the original Examiner's Answer and the Final Rejection. Also, the statutory basis for the rejection and the evidence relied upon in support of the rejection remained the same in the corrected Examiner's Answer as in the original Examiner's Answer and the Final Rejection. In such a circumstance, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976); MPEP § 1207.03 III, supra. Furthermore, Appellant had a fair opportunity to react to these revisions in that the filing of a reply brief was permitted under 37 CFR 41.41(a)(1). Therefore, contrary to petitioner's assertion, the present situation is substantially similar to that addressed in In re Kronig and new grounds of rejection were not introduced in the corrected Examiner's Answer of October 24, 2007.

Petitioner should also note that even if the suggestion to characterize the Examiner's Answer of October 24, 2007 as a Supplemental Examiner's Answer were persuasive, which it is not, Appellant still would have had a fair opportunity to react to these revisions in that the filing of a reply brief was permitted under 37 CFR 41.43(b). The governing regulations do not entitle Appellant the opportunity to amend a claim as a response to a revised explanation in an Examiner's Answer. Rather, such a response would involve a reply brief. While the filing of a new reply brief was not required by regulation or necessary since the grounds of rejection did not change, the corresponding creation of additional substance in the prosecution history would not have been undesirable if it gave further clarity to the record. Consequently, the submission of differing Examiner's Answers in this instance was not a prohibited abuse as suggested by petitioner.

In regard to the requested relief, prosecution will not be re-opened as a result of the instant petition since no new grounds of rejection were presented in the corrected Examiner's Answer and a fair opportunity to react to these corrections was already provided. Moreover, legal grounds do not exist for the request to re-open prosecution. Where a second Examiner's Answer is presented, Appellant may only request the re-

opening of prosecution if the second Examiner's Answer is a Supplemental Examiner's Answer that is written in response to a remand by the Board for further consideration of a rejection pursuant to 37 CFR 41.50(a)(1). See 37 CFR 41.50(a)(2). Here, the second Examiner's Answer was a corrected Examiner's Answer and not a Supplemental Examiner's Answer and it was not written in response to a remand by the Board for further consideration of a rejection pursuant to 37 CFR 41.50(a)(1). Also, 37 CFR 41.50(a)(2)(i) requires that such a request to re-open prosecution include a reply under 37 CFR 1.111 that addresses the new rejection. No such reply was filed after the alleged new grounds of rejection were presented. Therefore, prosecution will not be re-opened as a result of the instant petition. However, Appellant may re-open prosecution prior to a decision on the appeal by filing a Request for Continued Examination pursuant to 37 CFR 1.114(d).

Furthermore, none of the Examiner's Answers will be "stricken from the record." Petitioner fails to explain the meaning of "stricken from the record." This expression is understood to mean having the Examiner's Answers removed, or expunged, from the application file under 37 CFR 1.59. However, the instant petition does not include the required fee for a petition under 37 CFR 1.59 and does not establish to the satisfaction of the Director that the expungement of the information is appropriate.

Merely because an applicant contends that a given action was improper per se is not an adequate reason for deleting that action in its entirety from the administrative record, which the USPTO has long striven to maintain as complete and accurate as possible. While petitioner may disagree with some of the contents of the contested Examiner's Answers, the USPTO has also long held that a mere difference in opinion does not warrant expungement of part or all of a contested communication from the file record. See e.g., Ex Parte Fox, 1910 Dec. Commissioner Pat. 123 (Comm'r Pat. 1910).

Expungement of an Office communication would be justified where that Office communication contained inappropriate statements that were not suitable for retention in the administrative record. Cf. 37 CFR 1.3, which requires that applicants must conduct their business with the USPTO with decorum and courtesy. Even where expungement is warranted for an Office communication, a redacted version is maintained in the file; only the offensive language is removed.

The Manual for Patent Examining Procedure (MPEP) makes clear that the USPTO desires to provide as complete a patent file wrapper as possible while permitting the expungement of record information in very limited situations. See MPEP § 724.01. Section 724.05 of the MPEP and referenced-sections (e.g., MPEP § 724.02) address the following types of information as subject (or susceptible) to possible expungement:

1) trade secret information;
2) proprietary information;

3) protective order material;
4) unintentionally-submitted information; and
5) information submitted in a wrong application.

The above situations are the only known types of circumstances which have led to information expungement. Clearly none of the above apply here. Petitioner has not alleged that the contested Examiner's Answers include any trade secret, are proprietary in nature, are subject to a protective order, or contains language that is inconsistent with the USPTO's own requirement for courtesy and decorum in the written record under 37 CFR 1.3. It is also evident that the information was not wrongly submitted, and the examiner had jurisdiction of the case at the time the contested communication was issued.

Accordingly, no adequate basis is given or apparent for expunging the contested Examiner's Answers, and the USPTO sees no reason to exercise its discretion to deviate from, or expand upon, the above long-established reasons for expungement. See, e.g., Saxbe v. Bustos, 419 U.S. 65, 74 (1974) (acknowledging an agency's right to maintain a "longstanding administrative construction"). Therefore, none of the Examiner's Answers will be "stricken from the record."

DECISION

A review of the record indicates that the Technology Center Director did not abuse her discretion or act in an arbitrary and capricious manner in the petition decision of October 20, 2008. The record establishes that the Technology Center Director had a reasonable basis to support her findings and conclusion.

In the interest of ensuring that Appellant has a fair opportunity to react to the revisions of the corrected Examiner's Answer of January 14, 2008, Appellant may file a reply brief within one month or thirty (30) days, whichever is later, of the date this decision is mailed.

The petition is granted to the extent that the decision of the Technology Center Director of October 20, 2008 has been reviewed, but is denied with respect to making any change therein. As such, the decision of October 20, 2008 will not be disturbed. The petition is **denied**.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

John J. Love
Deputy Commissioner for
Patent Examination Policy

cp/db

[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.

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SEP 14 2005

REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22042

In re application of Nobuyuki Osaki, et al Application No. 10/882,432 Filed: July 2, 2004 For: METHOD AND APPARATUS FOR ENCRYPTED REMOTE COPY FOR SECURE DATA BACKUP AND RESTORATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on June 17, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Kenneth J. Domer
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dcg: 7/20/05

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JJGJR.: 07-05

Paper No: __

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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JUL 13 2005
OFFICE OF PETITIONS

In re Application of
Samuelsson, et al. :
Application No. 10/882,438 : ON PETITION
Filed: 1 July, 2004 :
Attorney Docket No. 418268009US :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 23 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 1 July, 2004, without, *inter alia*, a fully executed oath or declaration;

- the Office mailed a Notice of Missing Parts (*inter alia*, oath/declaration) on 25 August, 2004, and on 23 March, 2005, Petitioner filed, *inter alia*, (with a request and fee for an extension of time) an oath/declaration signed by the inventors (Samuelsson, Fakes, Chatterjee, Vehest, Vayman, Dadhia, Reddy and Koti, on behalf of themselves and) save for the non-signing inventor Steven Townsend (Mr. Townsend), and the instant petition and statement (Rajiv P. Sarathy (Reg. No. 55,592), including statement of the current/valid mailing address of Mr. Townsend, along with a copy of the transmittal letter indicating that a copy of the entire

application (specification: description abstract claims and drawings) was sent to Mr. Townsend at his last known address, and that he had not responded with a signed oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
George A. Lopez	:	
Application No. 10/882,469	:	ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No.:ICUMM.011C8C6	:	

This is a decision on the "Petition to Waive the Copy Requirement 37 CFR 1.183" filed September 29, 2006. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.98(d).

The petition is **dismissed**[1].

The subject application was filed on July 1, 2004, and was accompanied by an Information Disclosure Statement (IDS) citing 427 references. The instant petition was filed on September 29, 2006, requesting waiver of the requirement made in 37 CFR 1.98(d) that a copy of any patent, publication, pending U.S. Application or other information listed in an IDS be provided with application. Petitioner indicates that copies of the foreign patent references have been filed in co-pending application 10/630,13. Petitioner requests that the requirements of 37 CFR 1.98(d) be waived such that the examiner assigned to the application can access those references in application 10/630,131 and petitioner does not have to file copies of the same in the subject application.

It is noted that 37 CFR 1.98(d) provides that:

> d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:
>
> (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
>
> (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

It is further noted that 37 CFR 1.83 permits suspension or waiver of the rules, that are not also the requirements of the statute, in extraordinary situations or when justice requires. Petitioner has not, however, identified any circumstance that would justify waiver of the requirements of 37 CFR 1.98(d).

[1] The undersigned consulted with a supervisor in the Office of Petitions prior to rendering this decision.

The petition intimates that it would simply be inconvenient and tedious for petitioner to copy and file the foreign patent references in the subject application. Justice does not require waiver or suspension of the rules where, as in this case, petitioner has a viable and reasonable option available, but elects not to avail himself of that option. The petition is dismissed, accordingly.

The application file is directed to Technology Center 3700, GAU 3763 for further processing.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
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LOS ANGELES CA 90025-1030

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Kyung-Lak Lee :
Application No. 10/882,485 :
Filed: June 30, 2004 :
Attorney Docket No. 51876P691 :

ON PETITION

This is a decision on the petition, filed February 2, 2006, which is being treated 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 2811 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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In re Application of	:	
Shin, et al.	:	
Application No. 10/882,525	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 3364P177	:	

This is a decision on the "PETITION TO REVIVE," filed August 20, 2008, and the "RESPONSE TO NOTICE OF ABANDONMENT," filed October 9, 2007. This matter is being properly treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment. No fee is due in connection with this matter.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action mailed February 1, 2007. The non-final Office action set a three month shortened statutory period for reply. Notice of Abandonment was mailed September 5, 2007.

Petitioners have established, by virtue of a copy of a return postcard date stamped by the USPTO, that a response to the non-final Office action was timely filed April 26, 2007.

The reply previously filed has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 26, 2007.

This application is being referred to Technology Center AU 3662 for appropriate action in the normal course of business on the reply received with petition.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 9, 2006

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882576 Patent No.: 7,085,987 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: The Request is approved by examiner Esaw Abraham

Esaw Abraham

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2112
Art Unit

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Connolly Bove Lodge & Hutz, LLP
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Wilmington, DE 19899

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OFFICE OF PETITIONS

In re Application of	:	
Richard T. Shoemaker	:	
Application No. 10/882,578	:	ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No. RD8320 US DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2005, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on November 12, 2004, which set a three-month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application allegedly became abandoned on February 13, 2005.

Petitioner asserts that a reply was, in fact, timely submitted to the Office via facsimile transmission on January 21, 2005. In support, petitioner has provided a copy of the "Auto-Reply Facsimile Transmission," which confirms that the amendment was received in the Office on January 21, 2005. It is noted that the first page of the amendment lists an incorrect application number, 10/882,57<u>3</u>, but the subsequent pages of the amendment and the Fax Transmission cover sheet list the correct application number. As such, there was enough information provided for the Office to match the amendment with the proper application.

In view of the above, the application was improperly held abandoned. Accordingly, the petition fee of $1500 will not be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

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OFFICE OF PETITIONS

In re Application of	:	
Brett M. Oliphant.	:	
Application No. 10/882588	:	
Filing or 371(c) Date: 07/01/2004	:	
Attorney Docket Number:	:	
16416-62873	:	ON PETITION

This is a decision on the "Petititon to Withdraw Holding of Abandonment," filed April 14, 2008. The petition is properly treated under 37 C.F.R. § 1.181.

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 September 26, 2007. The Offiec action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on December 27, 2007. A Notice of Abandonment was mailed April 9, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed on November 15, 2007. In support of this assertion applicant files a copy of the reply, along with a copy of his Electronic Acknowledgment Receipt[1], which acknowledges receipt by this Office of "Applicant Argument/Remarks Made in an Amendment," and an "Information Disclosure Statement Letter," on November 15 2007.

Applicable Law, Rules and MPEP

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

[1] An acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).

Conclusion

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

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2131 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
Attorney
Office of Petitions

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of
Monroe, et al.
Application No. 10/882,594
Filed: June 30, 2004
Atty. Dkt. No.: 04-543

: LETTER REGARDING PTA

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 13, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed May 19, 2009 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 841 days. Applicants indicate that this adjustment may be incorrect as the Office neglected to assess a reduction in connection with the information disclosure statement (IDS) filed May 11, 2009.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 758 days.

As reflected in the Determination of Patent Term Adjustment mailed May 19, 2009, an adjustment of 932 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). As further reflected by the Determination of Patent Term Adjustment, the adjustment was reduced 32 days in accordance with 37 CFR 1.704(b) in connection with the reply filed July 21, 2008. As further reflected by the Determination of Patent Term Adjustment, the adjustment was properly reduced 59 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed September 18, 2008.

As indicated by applicants, the Office neglected to assess a reduction in connection with the IDS filed May 11, 2009. In accordance with 37 CFR 1.704(c)(8), the adjustment is further properly reduced 83 days. The reduction commenced February 18, 2009, the day after the date that the initial reply (amendment) was filed, and ended May 11, 2008, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 758 days (adjustment totalling 932 days less reductions totalling 174 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

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).

To the extent that applicant has concerns regarding additional adjustment pursuant to 37 CFR 1.703(b), applicant is advised that the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued. In accordance with 37 CFR 1.705(d), applicants are provided **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment indicated in the patent, including failure to issue the patent within 3 years. Requests for reconsideration must be timely filed and must include payment of the required fee.

This application is being forward 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) 272-3205.

AMBrown

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 8/30/2009

PALM INTRANET

Time: 16:01:10

PTA Calculations for Application: 10/882594			
Application Filing Date:	06/30/2004	PTO Delay (PTO):	932
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	758
PTO Delay Adjustment:	-83		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	08/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		83	
48	05/19/2009	MAIL NOTICE OF ALLOWANCE			
47	05/19/2009	ISSUE REVISION COMPLETED			
46	05/19/2009	DOCUMENT VERIFICATION			
45	05/19/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	05/14/2009	NOTICE OF ALLOWABILITY			
43	02/18/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	05/11/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	05/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
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38	02/17/2009	RESPONSE AFTER NON-FINAL ACTION			
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36	09/18/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		59	30
35	11/17/2008	MAIL NON-FINAL REJECTION			
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33	09/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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31	08/27/2008	DATE FORWARDED TO EXAMINER			
30	07/21/2008	RESPONSE AFTER NON-FINAL ACTION		32	26

29	07/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
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21	01/23/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
19	02/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
18	02/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	01/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
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7	08/22/2004	APPLICATION DISPATCHED FROM OIPE			
6	08/23/2004	APPLICATION IS NOW COMPLETE			
5	06/30/2004	PGPUBS NONPUB REQUEST			
4	08/13/2004	CLEARED BY OIPE CSR			
3	08/13/2004	CASE CLASSIFIED BY OIPE			
2	07/26/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/30/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Charles Monroe	: DECISION ON REQUEST FOR
Patent Number	: 7599867	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,594	: 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 **1324** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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. 021005

TOWNSEND AND TOWSEND AND CREW LLP
TWO EMBARCADRO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

MAR 2 5 2005

In re Application of	:	
HUTCHENS et al.	:	DECISION ON PETITION
Application No. 10/882,608	:	
Filed: June 30, 2004	:	
Attorney Docket No. 016866-001516	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 30, 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 the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to 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, or professional searchers, etc., the field of search was also provided, (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 distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

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.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Technology Center 2100

Townsend and Townsend and Crew, LLP
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San Francisco, CA 94111-3834

In re Application of: Furukawa, et al.
Application No. 10/882,615
Filed: June 30, 2004
For: COMPUTER SYSTEM HAVING A PLURALITY OF STORAGE NETWORKS AND METHOD FOR SETTING INFORMATION

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

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on November 21, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

for

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

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OFFICE OF PETITIONS

In re Application of	:	
Blaylock et al.	:	
Application No. 10/882,632	:	DECISION ON PETITION
Filed: July 1, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2002647-0039	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/483,891, filed July 1, 2003, as set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant pending nonprovisional application was filed on July 1, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/483,891, which was filed on July 1, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject

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

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

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

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

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220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks

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

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[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of Blaylock et al. Application No. 10/882,632 Filed: July 1, 2004 Attorney Docket No. 2002647-0039	DECISION GRANTING PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed on July 1, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/483,891, which was filed on July 1, 2003, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/483,891 is granted.

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

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

Petitioner submitted an additional $1370.00 surcharge with the instant petition. However, since the surcharge was previously collected with the petition on December 13, 2004, this surcharge is unnecessary. The $1370.00 will be refunded to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center AU 1638 for appropriate action on the amendment submitted February 3, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/483,891.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Fu et al.	:	
Application No. 10/882,633	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 003801.P151	:	

This is a decision on the petition, filed October 18, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 13, 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 projected publication date will be included on the updated Filing Receipt mailed by the Office of Initial Patent Examination when the response to the Missing Parts Notice has been processed.

This matter is now being referred to the Office of Initial Patent Examination for further processing.

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

Liana Chase

Liana Chase
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	:	
Fu et al.	:	
Application No. 10/882,633	:	DECISION GRANTING PETITION
Filed: June 30, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2043.151US1	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/495,608, filed August 14, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/495,608, which was filed on August 14, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3625 for appropriate action on the amendment submitted February 17, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/495,608.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Hwan-Joon Kwon	: DECISION ON REQUEST FOR
Patent Number	: 7593332	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1020** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/18/2010

Applicant : Hwan-Joon Kwon
Patent Number : 7593332
Issue Date : 09/22/2009
Application No : 10/882,637
Filed : 07/01/2004

: 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 **1095** 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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CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Bulan et al. : DECISION DISMISSED
Application No. 10/882,644 :
Deposited: July 2, 2004 :
Attorney Docket No.: 22133-00014-US :
Title: ELECTROCHEMICAL HALF-CELL

This is a decision on the "Petition under 37 CFR 1.53(b) to Grant a Filing Date" filed November 22, 2004, requesting that the above-identified application be accorded the filing date of July 2, 2004.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Application papers in the above-identified application were deposited on July 2, 2004. However, on September 20, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.[1]

In response, 4 sheets of drawings, including figures 1-3 and the present petition were filed on November 22, 2004. The petition contends that the application as filed included 3 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of

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

" 3 drawings (3 sheets) " on July 2, 2004.

However, a review of the petition and drawings submitted indicate petitioner has not submitted a copy of the drawings as they were purportedly filed on July 2, 2004. Instead petitioner has submitted four sheets of drawings in "formal format" including figures 1-3. Petitioner has failed to submit a copy of the 3 sheets of drawings including figures 1-3 which were purportedly submitted on July 2, 2004.

Accordingly, the petition cannot be granted because petitioner has failed to submit the original drawings purportedly submitted on July 2, 2004.On renewed petition, a true copy of the drawings should be submitted.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Bulan et al. : DECISION GRANTED
Application No. 10/882,644 :
Deposited: July 2, 2004 :
Attorney Docket No.: 22133-00014-US :
Title: ELECTROCHEMICAL HALF-CELL :

This is a decision on the renewed "Petition under 37 CFR 1.53(b) to Grant a Filing Date" filed November 22, 2004, requesting that the above-identified application be accorded the filing date of July 2, 2004.

Application papers in the above-identified application were deposited on July 2, 2004. However, on September 20, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.[1]

The renewed petition contends that the application as filed included 3 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " 3 drawings (3 sheets) " on July 2, 2004.

Applicant's postcard receipt is prima facie[2] evidence that

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

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

drawings were received on July 2, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 3 sheets of drawings, including figures 1-3, were received on July 2, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on February 7, 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 July 2, 2004**, using the 3 sheets of drawings supplied on February 7, 2005.

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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Banner & Witcoff, LTD.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

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OFFICE OF PETITIONS

In re Application of	:	
Carlos Domingo, et al.	:	
Application No. 10/882,662	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. 006292.00003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2008.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed January 16, 2008 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Carlos Domingo**
2-8-2-301 Higashi Magome
Otaku, 1430022
Japan

cc: **Celartem Technology, Inc.**
5th Floor, Sumitomo Higashi-Shimbashi
Bldg. No. 5
2-11-7, Higashi-Shimbashi, Minato-ku
Tokyo, Japan

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/882,662	07/02/2004	Carlos Domingo	006292.00003

CONFIRMATION NO. 2507

POWER OF ATTORNEY NOTICE

22907
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

OC000000029783494

Date Mailed: 05/06/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2008.

- 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.

/tswilliams/

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

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1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of	:	
LAVANCHY, et al.	:	
Application No. 10/882,676	:	DECISION ON PETITION
Filed: July 02, 2004	:	TO WITHDRAW
Attorney Docket No. 559442000801	:	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 29, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Application is being transferred to another attorney" does not meet any conditions set forth in 37 CFR 1040.

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

A Review of the file discloses that a non-final Office action was mailed on September 25, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of September 25, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004

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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
LAVANCHY, et al.
Application No. 10/882,676
Filed: July 2, 2004
Attorney Docket No. **559442000801**

DECISION ON PETITION TO WITHDRAW 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 January 17, 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 Adam Keser 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.

There is an outstanding Office action mailed April 16, 2007 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ERIC R. LAVANCHY**
266 EAST BROADWAY, APT # B1506
NEW YORK, NY 10002

cc: **MARC KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004

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ANNE MCGOVERN BURKHART
C/O CARMER PATTI LAW GROUP
1 NORTH LA SALLE, 44TH FLOOR
CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of :
Reynolds H. **DICKINSON, III** :
Application No. 10/882,692 : DECISION ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. P0406 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2009 and resubmitted July 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 12, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 2005.

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

Petitioner should address the statement that, within the last 10 months, Anne McGovern Burkhart, the attorney submitting the petition, became aware that her husband, the applicant's attorney, has been ill for some time.

As, Anne Burkhart was also an attorney of record in the application during the period in which the application became abandoned, petitioner must explain the delay from the time she became aware of the her husbands illness until the filing of the petition.

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 (here, almost (4) 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 13, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply,

then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Burkhart & Burkhart was counsel of record at the time of abandonment, Burkhart & Burkhart should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Burkhart & Burkhart. 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), Reynolds H. Dickinson and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Burkhart & Burkhart, Reynolds H. Dickinson 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 four (4) years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ANNE MCGOVERN BURKHART**
701 MAPLE AVE.
DOWNERS GROVE, ILLINOIS 60515

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ANNE MCGOVERN BURKHART
C/O CARMER PATTI LAW GROUP
1 NORTH LA SALLE, 44TH FLOOR
CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Reynolds H. DICKINSON, III	:	
Application No. 10/882,692	:	DECISION ON PETITION
Filed: June 29, 2004	:	
Attorney Docket No. P0406	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 12, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 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 $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 12, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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LOS ANGELES CA 90025-1030

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FEB 08 2005

OFFICE OF PETITIONS

In re Application of
Chang-Youn Hwang et al.
Application No. 10/882,698
Filed: June 29, 2004
Attorney Docket Number: 51876P686

ON PETITION

This is a decision on the petition filed November 23, 2004, requesting that the above-identified application be accorded a filing date of June 29, 2004, instead of the presently accorded filing date of June 24, 2005.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on June 29, 2004, pursuant to the requirements of 37 CFR 1.10.

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is June 24, 2004, but argue that the application was actually deposited with the USPS on June 29, 2004.

In support, petitioners have provided a copy of Express Mail Customer label No. EV372850314US (the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file) showing a "date-in" of June 24, 2004, a copy of the register receipt with a postage date of June 29, 2004, a copy of petitioner's express mail log and a declaration from Barbara Webster, the Office Services Clerk, the employee responsible for depositing express mail, that the package bearing Express Mail Label EV372850314US was in fact deposited on June 29, 2004. The evidence submitted corroborates that an item bearing Express Mail Label No. EV372850314US was accepted by the USPS on June 29, 2004. In view thereof, it is concluded that the correct date of deposit in Express Mail service is June 29, 2004. Therefore, the application is entitled to a filing date of June 29, 2004.

The petition is **GRANTED**. In view thereof, no petition fee is due and none has been charged.

This matter is being referred back to Office of Initial Patent Examination to correct the filing date to June 29, 2004, <u>not June 24, 2004,</u> and for a mailing 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

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801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Richard William Bragg	: DECISION ON REQUEST FOR
Patent Number	: 7603292	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,699	: 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 **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Mary Michelle Quinton	: DECISION ON REQUEST FOR
Patent Number	: 7634066	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,703	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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.

Dan Chang

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **November 08,2007**

TO SPE OF : ART UNIT **2819**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/882,713** Patent No.: **7193438 B1**

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: _____

Renford Barnie 2819

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of David F. Meschan, Tuan N. Le Application No. 10/882,725 Filed: June 30, 2004 Attorney Docket No. 104.0003-07000	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 23, 2005.

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

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

The above-identified application was filed on June 30, 2004. On August 26, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on February 23, 2005, made timely by obtaining a four month extension of time. Accompanying the petition was a declaration twice executed by inventor David F. Meschan, in his signature block and in the signature block of inventor Tuan N. Le.

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

As to requirement (2), the signature block for inventor Le should be left blank. A declaration with a blank signature block for the nonsigning inventor will be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor.[1]

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 409.03(a).

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of David F. Meschan, Tuan N. Le Application No. 10/882,725 Filed: June 30, 2004 Attorney Docket No. 104.0003-06000	: : : : : :	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 6, 2005.

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

The above-identified application was filed on June 30, 2004. On August 26, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on February 23, 2005, made timely by obtaining a four month extension of time. Accompanying the petition was a declaration twice executed by inventor David F. Meschan, in his signature block and in the signature block of inventor Tuan N. Le. However, the petition was dismissed in a decision mailed on March 15, 2005, because the signature block for Le was not left blank.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of :
David F. Meschan, Tuan N. Le :
Application No. 10/882,729 :
Filed: June 30, 2004 : LETTER
Title: Heel Support for Athletic Shoe :

Dear Mr. Le:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Thomas H Martin
1557 Lake O'Pines St NE
Hartville, Ohio 44632
phone: 330-877-0700

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BLDG. 082-1
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AUG 20 2008

In re Application of :
Craig M. Bertelsen, et al. :
Application No. 10/882,728 : ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. 2004-0044.01 :

This is a decision on the petition, filed April 30, 2008, to revive the above-identified application under 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of David E. LaRose appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. LaRose desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 September 26, 2007. A Notice of Abandonment was mailed on April 25, 2008. In response, on April 30, 2008, the present petition was filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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 the appeal fee of $510; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center AU 2853 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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: DAVID E. LAROSE
P.O. BOX 1871
KNOXVILLE, TN 37901

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LEXINGTON KY 40550-0999

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OCT 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
BERTELSEN et al.	:	DECISION ON PETITION
Application No. 10/882,728	:	
Filed: June 30, 2004	:	
Attorney Docket No. 2004-0044.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the nonfinal Office action mailed December 29, 2008, which set a three-month shortened statutory period to reply. The above-identified application became abandoned on March 30, 2009.

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

This application is being referred to Technology Center AU 2853 for appropriate action by the Examiner in the normal course of business on the reply received on July 9, 2009.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of David F. Meschan, Tuan N. Le Application No. 10/882,729 Filed: June 30, 2004 Attorney Docket No. 104.0003-06000	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 23, 2005.

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

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

The above-identified application was filed on June 30, 2004. On August 26, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition on February 23, 2005, made timely by obtaining a four month extension of time. Accompanying the petition was a declaration twice executed by inventor David F. Meschan, in his signature block and in the signature block of inventor Tuan N. Le.

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

As to requirement (2), the signature block for inventor Le should be left blank. A declaration with a blank signature block for the nonsigning inventor will be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor.[1]

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] See MPEP 409.03(a).

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APR 20 2005

OFFICE OF PETITIONS

In re Application of David F. Meschan, Tuan N. Le Application No. 10/882,729 Filed: June 30, 2004 Attorney Docket No. 104.0003-06000	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 6, 2005.

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

The above-identified application was filed on June 30, 2004. On August 26, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on February 23, 2005, made timely by obtaining a four month extension of time. Accompanying the petition was a declaration twice executed by inventor David F. Meschan, in his signature block and in the signature block of inventor Tuan N. Le. However, the petition was dismissed in a decision mailed on March 15, 2005, because the signature block for Le was not left blank.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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APR 20 2005

OFFICE OF PETITIONS

In re Application of :
David F. Meschan, Tuan N. Le :
Application No. 10/882,729 :
Filed: June 30, 2004 : LETTER
Title: Heel Support for Athletic Shoe :

Dear Mr. Le:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Thomas H Martin
1557 Lake O'Pines St NE
Hartville, Ohio 44632
phone: 330-877-0700

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Joel Mark Studtmann	: DECISION ON REQUEST FOR
Patent Number	: 7573831	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,731	: OF WYETH
Filed	: 07/01/2004	:
		:

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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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Joel Mark Studtmann
Patent Number : 7573831
Issue Date : 08/11/2009
Application No : 10/882,731
Filed : 07/01/2004

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **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** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

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

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393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook et al	:
Application No. 10/882,763	: DECISION ON PETITION
Filed: July 2, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZG194US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to an additional prior-filed nonprovisional application (Application No. 09/112,806, filed July 10, 1998), as 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 benefit of 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) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2853 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/882,763	07/02/2004	2853	770	ZG194US	15	10	3

CONFIRMATION NO. 8643

CORRECTED FILING RECEIPT

OC000000020685068

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 10/03/2006

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

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;
Gregory John McAvoy, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/303,349 11/23/2002 PAT 6,899,415
which is a CON of 09/854,715 05/14/2001 PAT 6,488,358
which is a CON of 09/112,806 07/10/1998 PAT 6,247,790

Foreign Applications

AUSTRALIA PP3987 06/08/1998
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 US10/882,763

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ink jet nozzle with multiple actuators for reducing chamber volume

Preliminary Class

347

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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SEP 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook :
Application No. 10/882,765 :
Filed: July 2, 2004 :
Attorney Docket No. **ZG020US** :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C § 120 for the benefit of priority to the prior-filed non-provisional application set forth in an amendment filed with the instant petition.

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

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

In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

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

The petition under 37 CFR 1.78(a)(3) lacks item (1) above.

As to item (1), it is noted that the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior-filed non-provisional application also includes an incorporation by reference statement incorporating the entire disclosure of prior-filed applications serial numbers 10/713,089 and 10/129,503. It is further noted that while the subject application did contain a statement incorporating by reference the entire disclosure of application 10/713,089, the incorporation by reference statement that was present on filing did not include application 10/129,503. The incorporation by reference statement included in the

reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(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. § 120 and 37 CFR § 1.78(a)(2)(i) is, therefore, made improper by the inclusion of the incorporation by reference statement referencing application 10/129,503.

Petitioner may wish to file a renewed petition under3 7 CFR 1.78(a)(3) with a proper reference under 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(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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In re Patent No. 6,959,974 :
Issue Date: November 1, 2005 :
Application No. 10/882,765 : ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. **ZG020US** :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional Application, No. 10/129,503, filed May 6, 2002.

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

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior –filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed July 2, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

3. a statement that the entire delay between the date the claim 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

No further action is necessary in this case since the issued patent was printed with the claim to priority for application serial number 10/129,503.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/882,765	07/02/2004	2853	1070	ZG020US	1	13	1

CONFIRMATION NO. 7127

CORRECTED FILING RECEIPT

OC000000018784506

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 05/12/2006

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

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/713,089 11/17/2003 PAT 6,799,836
which is a CON of 10/129,503 05/06/2002 PAT 6,676,245
which is a 371 of PCT/AU01/00239 03/06/2001

Foreign Applications	Acceptable Request to Retrieve Priority Application Received?
AUSTRALIA PG6058 03/06/2000	NO

If Required, Foreign Filing License Granted: 08/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/882,765

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PAGEWIDTH PRINTHEAD ASSEMBLY

Preliminary Class

347

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.

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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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AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook	: DECISION ON PETITION
Application No. 10/882,768	: UNDER 37 CFR 1.78(a)(3)
Filed: July 2, 2004	:
Attorney Docket No. ZG019US	:

This is a decision on the paper filed April 11, 2005, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 10/129,503, as set forth in the amendment filed on January 10, 2005.

The petition is **DISMISSED**.

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

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

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

A reference to add the above-noted, prior-filed application~~s~~ on page one following the first sentence of the specification has been included in the amendment filed on January 10, 2005. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction

between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

---

[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-17-10

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882771 Patent No.: 6935718

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

FOR IFW FILES: Should foreign app. Priority data be appeared

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

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

FOR PAPER FILES:

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

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

Ennis Young LTE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE _____ ART UNIT _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041
AUSTRALIA

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of
Silverbrook
Application No. 10/882,774
Filed: February 2, 2005
Attorney Docket No. JUM005US
For: HIGH NOZZLE DENSITY INKJET PRINTHEAD

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of a prior-filed nonprovisional application.

The petition is **DISMISSED** because it is not signed by a proper party. **No one** has signed the petition.

In addition, petitioner is reminded that USPTO correspondence should be identified by application number, filing date, first named inventor, attorney docket number, Art Unit, and title of invention. This petition contains no identifiers. Including identifiers on correspondence ensures that the correspondence is matched with the proper application file.

A renewed **signed** petition under 37 CFR § 1.78(a)(3) is required. Petitioner is informed that an amendment regarding the priority claim is missing, as well.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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393 DARLING STREET
BALMAIN NSW 2-041
AUSTRALIA

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NOV 3 0 2006
OFFICE OF PETITIONS

In re Application of Silverbrook Application No. 10/882,774 Filed: February 2, 2005 Attorney Docket No. JUM005US For: HIGH NOZZLE DENSITY INKJET PRINTHEAD	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed October 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the original and updated filing receipts.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded via treasury check in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2853 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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393 DARLING STREET
BALMAIN 2041
AUSTRALIA **AIR MAIL**

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
KIA SILVERBROOK	:	
Application No. 10/882,775	:	DECISION ON PETITION
Filed: 07/02/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZF015US	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 4, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2853 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/12/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882,780 Patent No.: 7,012,038 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2818
Art Unit

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KILPATRICK STOCKTON
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Jon Christopher Stroup et al	:	
Application No. 10/882,785	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. 49942-286233	:	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 2, 2005.

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

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

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

This application is being referred to Technology Center AU 1734.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

cc: NELSON MULLINS RILEY & SCARBOROUGH
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

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Robert Scott Hauser
MORGAN LEWIS & BOCKIUS LLP
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, California 94306

MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Eric R. FREDRICKSEN
Appl. No.: 10/882,792
Filed: June 30, 2004
For: SYSTEM AND METHOD OF ACCESSING A DOCUMENT EFFICIENTLY THROUGH MULTI-TIER WEB CACHING

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed January 14, 2005 to expunge the Request for Correction of Inventorship submitted on September 8, 2004.

The petition is **GRANTED**.

Petitioner requests that the Request for Correction of Inventorship under 37 CFR § 1.48(a), along with the supporting documents, filed on September 8, 2004 be expunged from the record. Petitioner states that the Request for Correction of Inventorship, along with the supporting documents, were unintentionally submitted on September 8, 2004 and states that the failure to obtain the return of the Request for Correction of Inventorship would cause irreparable harm to applicant. The petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Eric Russell Fredricksen	: DECISION ON REQUEST FOR
Patent Number	: 7587398	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,794	: 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 **515** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of :
GOLLA, ROBERT T. et al. :
Application No. 10/882,807 : DECISION ON PETITION
Filed: June 30, 2004 : TO WITHDRAW
Attorney Docket No. **20910/0205441-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 18, 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 declaration filed on June 30, 2004 is improper. The addresses for all inventors were not provided.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OSHA LIANG L.L.P./SUN**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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United States Patent and Trademark Office
P.O. Box 1450
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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of
Callaway et al.
Application No. 10/882,808
Filed: July 1, 2004
Attorney Docket No. 1240-R-03
For: Methods and Apparatuses for Routing Data in a Personal Area Network

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 28, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1), (2) and (4).

As to (1), the conduct of the non-signing inventors will not be construed as refusal. If petitioner wishes to send papers solely by email, then petitioner must prove that the email was received, prove the non-signing inventor read the email, and prove the inventor was able to open the attachment. Petitioner has not provided such proof. The non-signing inventors are not required to check their email on a regular basis or to ensure that emails not accidentally be classified as "junk mail" and automatically sent to "junk mail" folder. The non-signing inventors are not required to own Microsoft word.

The problems with email are the reason the Office recommends a copy of the papers be sent to the last known address for the non-signing inventor. Last known address means last known mailing address and not last known email address. Petitioner should send a copy of the application to the inventor along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

As to (2), the declaration fails to list addresses or citizenship for the non-signing inventors.

Item (3) has been satisfied. The current fee for a petition under 37 CFR 1.47 is $200.[1] Petitioner submitted $130. Therefore, $70 has been charged to petitioner's deposit account.

As to (4), petitioner has not provided the last known mailing addresses for the non-signing inventors.

A supplemental declaration must be submitted in order to correct items (2) and (4) listed above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	Decision Noting Joinder of Inventor and
Callaway et al.	:	Decision Dismissing Any Request for
Application No. 10/882,808	:	Status Under 37 CFR 1.47 as Moot
Filed: July 1, 2004	:	
Attorney Docket No. 1240-R-03	:	

Papers filed on August 2, 2005, in response to a Decision refusing to accord status under 37 CFR 1.47(a) mailed on June 6, 2005, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

Telephone inquiries concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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.

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

COPY MAILED

DEC 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Setty et al.	:	
Application No. 10/882,814	:	
Filed: June 30, 2004	:	
Attorney Docket No.: WO30-007	:	ON PETITION

This is a decision in response to the Petition to Correct Filing Date Under 37 CFR § 1.10, filed September 9, 2004, requesting that the above-identified application be accorded a filing date of June 30, 2004, rather than the presently accorded filing date of July 1, 2004.

Petitioner alleges that the application was deposited in Express Mail service on June 30, 2004. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that June 30, 2004 was the date the correspondence was deposited Express Mail Post Office to Addressee.

In view of the above, the petition is **granted**. No fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to June 30, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080508

DATE : May 21, 2008

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction on Patent No.: 7,281,083

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /REGINALD G. BRAGDON/ **Art Unit** 2189

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

Gunnar G. Leinberg, Esq.
Nixon Peabody LLP
1100 Clinton Square
Rochester, NY 14604

Mail Date: 05/18/2010

Applicant	: Kristaps Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7669207	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/882,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

COPY MAILED

NOV 0 8 2006

OFFICE OF PETITIONS

Applicant: Hatwar et al.
Appl. No.: 10/882,834
Filing Date: July 1, 2004
Title: HIGH PERFORMANCE WHITE LIGHT-EMITTING OLED DEVICE
Attorney Docket No.: 88256RLO
Pub. No.: US 2006/0003184 A1
Pub. Date: January 5, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 5, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as page 52 of the original application, which includes a parts list was omitted from the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in omitting page 52 of the original application papers is an Office error, but it is not a material Office error under 37 CFR 1.221. The omission of the parts list on page 52 does not affect the understanding of the application, as the parts are labeled in the specification. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or

[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).

determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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 B. FAMIGLIO, ESQUIRE
FAMIGLIO & ASSOCIATES
P.O. BOX 1999.
MEDIA PA 19063

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JUN 08 2007

OFFICE OF PETITIONS

In re Application of
CASSELLS, Kevin J. et al.
Application No. 10/882,857
Filed: July 01, 2004
Attorney Docket No. **4056-10**

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 12, 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 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 December 14, 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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KEVIN J. CASSELLS**
175 TITUS AVENUE
SUITE 300
WARRINGTON, PA 18976

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD, CT 06905

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OFFICE OF PETITIONS

In re Application of	:	
Jay S. Walker et al	:	
Application No. 10/882,859	:	DECISION GRANTING PETITION
Filed: July 1, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 97-015-C3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 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 May 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 27, 2005. A Notice of Abandonment was mailed on January 25, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 26, 2005 is accepted as having been unintentionally delayed.

A "Notification of Loss of Entitlement to Small Entity Status Pursuant to 37 CFR 1.27(g)(2)" was also received on April 24, 2006. Accordingly, this application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3713 for appropriate action in the normal course of business on the reply received April 24, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Howard B. Herdeg III	: DECISION ON REQUEST FOR
Patent Number	: 7653896	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/882,861	: 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 **921** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Aug-06

MARLIN KNIGHT
P. O. BOX 1320
PIONEER CA 95666

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Fong et al.	:	DECISION ON PETITION TO
Application No. 10/882,882	:	WITHDRAW HOLDING OF
Filed: 30 June, 2004	:	ABANDONMENT
Attorney Docket No.	:	
HSJ920040085US1	:	

This is a decision on the petition to withdraw the holding of abandonment in the above-identified application, filed on 24 April, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due mailed on 28 November, 2005. Notice of Abandonment was mailed on 13 April, 2006.

Petitioner asserts that a response to the Notice of Allowance was timely filed on 8 February, 2006. In support, petitioner has supplied a copy of the Fee(s) Transmittal which contains a Certificate Under 37 CFR 1.8 dated 8 February, 2006, signed by registered patent attorney G. Marlin Knight. Petitioner has also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 2 pages, including the Fee(s) Transmittal, were received at the USPTO on 8 February, 2006.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As the Fee(s) Transmittal filed with the present petition is signed by attorney Knight and states that he certifies that the papers are being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below, and the date is listed as 8 February, 2006, this paper will be construed as constituting the statement required by item (2) above.

As petitioner has provided convincing evidence that a reply to the Office communication was transmitted to the USPTO on 8 February, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is <u>withdrawn</u>, and the Notice of Abandonment is <u>vacated</u>.

Receipt of the issue and publication fees is acknowledged.

The application is being referred to the Publishing Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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DEC 3 1 2008

In re Application of
Hull
Application No. 10/882,904
Filed: June 30, 2007
Attorney Docket No. PPC-779 DIV 1
For: FOLDED COMPACT TAMPON APPLICATOR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed April 3, 2008, which set an extendable three month period for reply. Applicant submitted a petition for a two month extension of time under 37 CFR 1.136(a) and an amendment after final on August 12, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the August 22, 2008 Advisory action. Accordingly, this application became abandoned on September 4, 2008. A Notice of Abandonment was mailed on November 3, 2008.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2) above.

The large entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $1,620.00. Petitioner specified only a $1,540.00 petition fee to be paid. Furthermore, no payment accompanied the petition and the December 9, 2008 RCE authorization did not cover the petition fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioner should submit the $1,620.00 petition fee promptly.

Pursuant to petitioner's authorization, deposit account no. 10-0750 will be charged the required $810.00 RCE fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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AUG 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
CARASSO et al.	:	DECISION ON PETITION
Application No. 10/882,913	:	UNDER 37 CFR 1.137(b)
Filed: 06/30/2004	:	
Attorney Docket No. PPC-5071-USA- CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

On June 5, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set an extendable period of one month or thirty days, whichever was longer, to reply. On July 6, 2006, the application became abandoned. On January 8, 2007, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The matter is being referred to Technology Center Art Unit 3761.

Telephone inquiries 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

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Yusuke Shinoda :
Application No.: 10/882,938 : ON PETITION
Filed: July 1, 2004 :
Attorney Docket No.: FUJH 21.248 :

This is a decision on the petition, filed March 6, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 Pedro Carlos Fernandez appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The 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, 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 2611 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-08-09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882959 Patent No.: 7529421

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Please Enter the Changes to the Background, Detailed Description and claim 2 Lines 49-57. Do Not Enter the Amendment to claim 2 lines 49-57.

Col. 22 Claim 2 Lines 49-57, Improperly Broadens the scope/meaning of the claims

2624

SPE **Art Unit**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Beauchaine et al.

Patent No.: 7,529,421 B2

Issued: May 5, 2009

Serial No.: 10/882,959

Filed: July 1, 2004

For: OPTICAL PROXIMITY CORRECTION IN RASTER SCAN PRINTING BASED ON CORNER MATCHING TEMPLATES

§

Group Art Unit: 2624

Examiner: Gandhi Thirugnanam

Confirmation No.: 3089

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically to the U.S. Patent and Trademark Office via EFS-Web on June 22 2009, addressed to: Certificate of Correction Branch Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

6/22/09

Signature Date
Name: Keith M. Tackett

Dear Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Attached is a Certificate of Correction for correcting several errors in the background of the invention, detailed description, and claims section of the printed patent.

Applicants submit that the errors mentioned above were not by the applicants, but were made during the printing of the patent.

Respectfully submitted,

Keith M. Tackett
Registration No. 32,008
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)

ENTER IN PART: /G.T./

Enter Changes to Background Detailed Description and Col. 22, Claim 2 Line 48. Do NOT enter Col. 22, Claim 2, Lines 49-57

/Gandhi Thirugnanam/ 11/19/2009

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 : 7,529,421 B2

APPLICATION NO. : 10/882,959

DATED : May 5, 2009

INVENTOR(S) : Beauchaine et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the Background of the Invention:

Column 2, Line 23, please insert - -,- - after 111;

Column 2, Line 42, please insert - -,- - after 110_G;

In the Detailed Description:

Column 11, Lines 62-63, please delete "CVXUL = P & N 0 & N6 & N7 &!N1 &!N2 &!N3 &!N4 &!N5" and insert - -CVXUL = P & N0 & N6 & N7 & !N1 & !N2 & !N3 & !N4 & !N5- - therefor;

Column 19, Line 23, please delete "tallyirig" and insert - -tallying- - therefor;

Column 20, Line 25, please delete "Within" and insert - -within- - therefor;

Column 21, Line 5, please delete "B_" and insert - -B1_- - therefor;

In the Claims:

Column 22, Claim 2, Line 48, please delete ";" and insert - -.- - therefor;

Column 22, Claim 2, Lines 49-57, please delete "calculating a sum of a grayscale value of a convex corner pixel in the original grayscale buffer and a first correction factor; and increasing the grayscale value of a pixel in the correction buffer corresponding to the convex corner pixel by the first correction factor; and modifying grayscale values in the correction buffer without modifying grayscale values in the original grayscale buffer.".

MAILING ADDRESS OF SENDER (Please do not use customer number below):
PATTERSON & SHERIDAN
3040 Post Oak Blvd, Ste 1500
Houston, TX 77056-6582

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-08-09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/882959 Patent No.: 7529421

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Please Enter the Changes to the Background, Detailed Description and Col. 22, claim 2 Lines 48 (Punctuation). Do NOT Enter the Amendment to claim 2 lines 49-57.

Col. 22 Claim 2 Lines 49-57, Improperly Broadens the scope/meaning of the claims by removing limitations from the claim.

/Bhavesh Mehta/ — **SPE**

2624 — **Art Unit**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Beauchaine et al.	§	Group Art Unit: 2624
Patent No.: 7,529,421 B2	§	Examiner: Gandhi Thirugnanam
Issued: May 5, 2009	§	
Serial No.: 10/882,959	§	Confirmation No.: 3089
Filed: July 1, 2004	§	
For: OPTICAL PROXIMITY CORRECTION IN RASTER SCAN PRINTING BASED ON CORNER MATCHING TEMPLATES	§	

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically to the U.S. Patent and Trademark Office via EFS-Web on December 21, 2009, addressed to: Certificate of Correction Branch Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature 12/21/09 Date
Name: Keith M. Tackett

Dear Sir:

REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR CERTIFICATE OF CORRECTION

Applicants file this Request for Reconsideration of Decision on Request for Certificate of Correction in response to the decision denying Applicant's Request for Certificate of Correction mailed on November 23, 2009.

Applicants submitted the Request for Certificate of Correction to delete the portion of the claim that was duplicated. The attached Examiner-Initiated Interview Summary dated December 10, 2008 indicates the amendment of this claim. The Examiner-Initiated Interview Summary is an attachment of the Notice of Allowance and Fee(s) Due dated December 30, 2008.

Applicants respectfully request that the decision on Applicant's Request for Certificate of Correction be reconsidered. Although Applicants believe that no additional fees are due in connection with this request, the Commissioner is hereby authorized to charge counsel's Deposit Account No. 20-0782 for any fees required to make the filing of this paper timely and acceptable to the Office.

OK TO ENTER: /G.T./ /Gandhi Thirugnanam/ 02/02/2010

Respectfully submitted,

Keith M. Tackett
Registration No. 32,008
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)

OK TO ENTER: /G.T./

/Gandhi Thirugnanam/ 02/02/2010

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 : 7,529,421 B2

APPLICATION NO. : 10/882,959

DATED : May 5, 2009

INVENTOR(S) : Beauchaine et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In the Claims:

Column 22, Claim 2, Lines 49-57, please delete "calculating a sum of a grayscale value of a convex corner pixel in the original grayscale buffer and a first correction factor; and increasing the grayscale value of a pixel in the correction buffer corresponding to the convex corner pixel by the first correction factor; and modifying grayscale values in the correction buffer without modifying grayscale values in the original grayscale buffer.".

MAILING ADDRESS OF SENDER (Please do not use customer number below):
PATTERSON & SHERIDAN
3040 Post Oak Blvd, Ste 1500
Houston, TX 77056-6582

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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APR 07 2009

OFFICE OF PETITIONS

In re :
Application No. 10/882,960 :
Mary Quinton : LETTER REGARDING
Filed: July 1, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 418268887US6:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. §1.705(B)," filed December 22, 2008. Applicant asserts that the correct patent term adjustment is 0 days.

The request for review of the patent term adjustment (PTA) is **DISMISSED** to the extent that it requests correction of the patent term adjustment.

On September 22, 2008, 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 843 days. Applicant requests the correction on the basis that the term of the patent extending beyond the expiration of U.S. Patent No. 7,251,315 has been disclaimed as described in the terminal disclaimer filed on May 9, 2008.

It is noted that the filing of the terminal disclaimer on May 9, 2008 has no effect on the determination of patent term adjustment *set forth* on any patent issuing from this application. It is true that 35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Moreover, 37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

However, the provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As this letter was submitted as an attempt to advise the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). Applicants should advise the Office of any basis for the filing of this letter (i.e., any basis for correction of the patent term adjustment pursuant to Comment 43) not addressed in this decision.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
Cleveland, OH 44114

Mail Date: 06/17/2010

Applicant	: Leonard N. Schiff	: DECISION ON REQUEST FOR
Patent Number	: 7639646	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/882,964	: 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 **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KIMTON N. ENG.
DORSEY & WHITNEY
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Jigish D. Trivedi	:	
Application No. 10/882,969	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 501188.05(30174/US4)	:	

This is a decision on the petition, filed January 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : January 6, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jigish D. Trivedi
Application No. :10/882,969
Filed :June 30, 2004

The above-identified application has been assigned Patent No. 6,984,854 and an issue date of January 10, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 10, 2006:

"All reference to Patent No. 6,984,854 to Jigish D. Trifedi of Idaho for EDGE INTENSIVE ANTIFUSE appearing in the Official Gazette of January 10, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/25/07

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 7138419

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1616

SPE

1616
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

In re Patent No. 7,619,016	:	DECISION ON REQUEST FOR
Dickens et al.	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/883,011	:	NOTICE OF INTENT TO ISSUE
Filed: July 2, 2004	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 010118.00031	:	

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty (1020) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **nine hundred ninety-seven (997) days.**

A review of the application history reveals that a period of reduction should have been entered for the submission of a request for refund, filed November 16, 2009, after the mailing of the Notice of Allowance. This is a proper basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed 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 amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority

document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

A request for a refund is clearly stated as a failure to engage in reasonable efforts to conclude processing or examination of the application. It is undisputed that a request for refund was filed on November 16, 2009, after the mailing of the Notice of Allowance.

Under the circumstances, the period of reduction is properly calculated as twenty-three (23) days, counting the number of days in the period beginning on the date the request for refund was filed, November 16, 2009, and ending on December 8, 2009.

Accordingly, the patent term adjustment is 997 days (668 days of A delay + 504 days of B delay - 175 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred ninety-seven (997) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,619,016 B2

DATED: Nov. 17, 2009 **DRAFT**

INVENTOR(S): Dickens 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 516 days.

Delete the phrase "by 516 days" and insert – by 997 days--

Day : Monday
Date: 6/28/2010

PALM INTRANET

Time: 22:18:18

PTA Calculations for Application: 10/883011			
Application Filing Date:	07/02/2004	PTO Delay (PTO):	668
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	152
Post-Issue Petitions:	0	Total PTA (days):	997
PTO Delay Adjustment:	481		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
80	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	504		
79	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		23	
73.5	10/28/2009	PTA 36 MONTHS			
73	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	10/16/2009	EXPORT TO FINAL DATA CAPTURE			
71	10/15/2009	DISPATCH TO FDC			
70	10/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	10/08/2009	ISSUE FEE PAYMENT VERIFIED			
68	10/08/2009	ISSUE FEE PAYMENT RECEIVED			
67	08/21/2009	FINISHED INITIAL DATA CAPTURE			
66	07/14/2009	EXPORT TO INITIAL DATA CAPTURE			
64	07/10/2009	MAIL NOTICE OF ALLOWANCE			
63	07/08/2009	ISSUE REVISION COMPLETED			
62	07/08/2009	DOCUMENT VERIFICATION			
61	06/26/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	06/26/2009	CASE DOCKETED TO EXAMINER IN GAU			
59	06/24/2009	EXAMINER'S AMENDMENT COMMUNICATION			
58	06/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	06/24/2009	NOTICE OF ALLOWABILITY			
56	06/19/2009	DATE FORWARDED TO EXAMINER			
55	06/17/2009	AMENDMENT AFTER FINAL REJECTION			
54	06/02/2009	MAIL FINAL REJECTION (PTOL - 326)			
53	05/29/2009	FINAL REJECTION			

52	05/28/2009	DATE FORWARDED TO EXAMINER			
51	04/07/2009	RESPONSE AFTER NON-FINAL ACTION			
50	01/07/2009	MAIL NON-FINAL REJECTION			
49	01/05/2009	NON-FINAL REJECTION			
47	11/19/2008	DATE FORWARDED TO EXAMINER			
46	11/18/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	11/19/2008	DATE FORWARDED TO EXAMINER			
44	11/18/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	40
43	11/19/2008	DISPOSAL FOR A RCE / CPA / R129			
42	11/18/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	11/18/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	06/18/2008	MAIL FINAL REJECTION (PTOL - 326)			
39	06/17/2008	FINAL REJECTION			
37	04/18/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
36	05/20/2008	DATE FORWARDED TO EXAMINER			
35	04/18/2008	RESPONSE AFTER NON-FINAL ACTION		91	33
34	04/18/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	10/18/2007	MAIL NON-FINAL REJECTION			
32	10/15/2007	NON-FINAL REJECTION			
31	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
30	07/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	11/24/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	09/05/2007	DATE FORWARDED TO EXAMINER			
27	09/04/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
26	09/04/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/02/2007	MAIL RESTRICTION REQUIREMENT	668		-1
24	06/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
23	02/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	02/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	10/18/2005	MISCELLANEOUS INCOMING LETTER			
20	11/24/2004	REFERENCE CAPTURE ON IDS			

19.7	11/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/02/2004	REFERENCE CAPTURE ON IDS			
17.7	07/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/22/2004	TRANSFER INQUIRY TO GAU			
15	10/21/2004	TRANSFER INQUIRY TO GAU			
14	10/18/2004	APPLICATION RETURN FROM OIPE			
13	10/18/2004	APPLICATION RETURN TO OIPE			
12	10/18/2004	APPLICATION DISPATCHED FROM OIPE			
11	10/18/2004	APPLICATION IS NOW COMPLETE			
10	09/30/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	09/30/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	08/10/2004	CLEARED BY OIPE CSR			
3	08/10/2004	CASE CLASSIFIED BY OIPE			
2	07/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/02/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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SEP 30 2009

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
Nonaka et al.	:	
Application No.10/883,014	:	DECISION ON PETITIONS
Filed: July 1, 2004	:	
Attorney Docket No.	:	
20154/0201569-US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2009 and supplemented on May 15, 2008, to revive the above-identified application. Petitioner request in the alternative treatment under 37 CFR 1.183.

The petitions are **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 March 18, 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 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 16, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the

petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (1).

<u>As to Period (1):</u>

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]. <u>See</u> 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).

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. In the instant application, petitioner essentially contends that the parties having the right or authority to avoid the abandonment were Mitsubishi Materials Corporation ("MMC") and Samsung Electronics Co., Ltd. ("Samsung") based upon negotiations, which occurred between MMC and Samsung regarding the above-identified application which started in July 2006.

However, a review of the record shows that an assignment recorded at reel 015263 frame 0104, inventors Nonaka, Kinoshita and Mori conveyed their interest in the above-identified application to MMC on September 28 and 29, 2004. A second assignment recorded at reel 022206 frame 0897 shows that MMC conveyed 50% interest to Samsung. The document was executed on December 12, 2008 and recorded with the Office on February 4, 2009. Accordingly, the party having the right or authority to avoid abandonment was MMC. The fact that negotiations were on going does not demonstrate that Samsung retained any interest in the instant application until well after the application was held abandoned on February 16, 2008.

Mr. Kunito Kidokoro an employee of Material Business Support Corporation ("MBSC"), a subsidiary of MMC, acted as the liaison between MMC and MMC's outside counsel Darby and Darby ("Darby"). Upon the receipt of the advisory action, Darby contacted liaison Kidokoro who informed Darby to abandon the matter in an e-mail dated February 5, 2008. The matter was determined to be "not worth it" and it seemed too difficult to overcome the rejections and the "expense was too high". Upon the receipt of the Notice of Abandonment, Darby forwarded the abandonment to MMC. Petitioner insists that Mr. Kidokoro made a decision to abandon the application without adequate and full knowledge of the ongoing negotiations.

Pursuant to MPEP 711.03(c), where the applicant deliberately permits an application to become abandoned (e.g., due to a

conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In the instant application the change of circumstance subsequent to the deliberate abandonment of the application was Mr. Kidokoro's discovery of the negotiations between MMC and Samsung. MMC's decision to abandon the application cannot be construed as unintentional as the instructions to Darby were a deliberate course of action based upon the expense and the difficulty in overcoming the rejections. Further, the Office is not convinced

that the discovery of the negotiations with Samsung after the e-mail requesting abandonment are not after-the fact changed circumstances. The "pre-existing" negotiations do not render the deliberate course as unintentional. The reconsideration of the abandonment of the application after the conveyance of the 50% interest to Samsung does not make the abandonment of the application unintentional.

Further the fact that negotiations continued, does not in and off itself suggest that such negotiations are inconsistent with intentional abandonment. The very nature of negotiations shows the end result could be no agreement is reached.

Petitioner as the successor in part of the title to MMC is bound by the delay resulting from MMC's business decisions, actions or inactions, including the business decisions actions and inactions, which resulted in the abandonment of the application.

The supplemental petition which indicates that a change of inventorship adding employees of Samsung to the inventive entity does not overcome what appears to be the intentional abandonment of the instant application by MMC which was the assignee with 100% interest in the application. Further where applicant permits a third party (whether partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding. See Winkler v. Ladd, 221 F. Supp. 550, 552,138 USPQ 666, 667-68 (D.D.C. 1963)

Lastly, petitioners' request for waiver under 37 CFR 1.183 is dismissed. 35 USC 41(a)(7) requires that petitioners show the entire delay in the submission of a reply was unintentional, The Office does not have the authority to waive 35 USC 41 (a)(7).

Pursuant to petitioner's request, deposit account 04-0100 will be charge the $400.00 petition fee for treatment under 37 CFR 1.183.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

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

STAAS & HALSEY LLP
1201 NEW YORK AVENUE NW, SUITE 700
WASHINGTON, DC 20005

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
NAKAMURA, et al. :
Application No. 10/883,033 : DECISION GRANTING PETITION
Filed: July 2, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1081.1206 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 11, 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 June 19, 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 2613 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH M. JONG
3231 SOUTHDOWN DR.
PEARLAND, TX 77584

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Kao, Li Hsiang	:	
Application No. 10/883,039	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. UNIM/0003	:	

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 26, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 27, 2004. A Notice of Abandonment was mailed on May 24, 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

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
10/883,039	06/30/2004	Li Hsiang Kao	UNIM/0003

CONFIRMATION NO. 4057

WITHDRAWAL NOTICE

JOSEPH M. JONG, ATTORNEY AT LAW
3231 SOUTHDOWN DRIVE
PEARLAND, TX 77584

Date Mailed: 04/04/2006

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

It has come to the attention of the Office that the Notice mailed on 07/15/2005 was sent in error. The Notice is hereby withdrawn. The application is complete and will be processed for examination. The Official Filing Receipt is enclosed. The office regrets any inconvenience the error may have caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE COPY

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0 6 JUN 2008

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John F. Klos, Esq.
Fulbright & Jaworski LLIP
2100 IDS Center
80 South 8th Street
Minneapolis MN 55402-2112

In re Application of: FENTON, Gustav, R. Application No.: 10/883,064 Filing Date: June 30, 2004 Attorney Docket No.: 25,961-10US For: NASAL DEVICES INCLUDING DILATION AND USER COMMUNICATION AND METHODS OF USING SAME	DECISION ON PETITION (37 CFR 1.78(a)(3) and (a)(6))

This decision is issued in response to the "Petition And Amendment Under 37 CFR 1.78 For Unintentional Delay In Correcting Priority Claim" filed January 03, 2008, treated herein under 37 CFR 1.78(a)(3) and (a)(6). Applicant has submitted the required petition fee.

BACKGROUND

On June 30, 2004, applicant filed materials to initiate the present U.S. non-provisional application. The materials were assigned U.S. application number 10/883,064 and were treated as a new application filed under 35 U.S.C. 111(a).

The first paragraph of the specification filed by applicant on June 30, 2004 stated that the application "claims the benefit of priority of PCT/US02/41505, filed December 27, 2002, and U.S. Provisional Application Ser. No. 60346,071, filed December 31, 2001." The declaration filed by applicant on June 30, 2004 included a benefit claim under 35 U.S.C. 119(a) to PCT/US02/41505 and under 35 U.S.C. 119(e) to U.S. provisional application 60/346,071.

On January 13, 2005, a filing receipt was issued. The filing receipt did not include a reference to either the international application or the provisional application listed by applicant in the first paragraph of the specification and in the declaration.

On 03 January 2008, applicant filed the petition considered herein. The petition seeks to amend the present application to indicate that the application is a U.S. national stage of PCT/US02/41505, which claims priority to U.S. provisional application 60/346,071.

DISCUSSION

A. The application was properly treated as a filing under 35 U.S.C. 111(a)

By the present petition, applicant seeks to have the instant application treated as a U.S national stage of international application PCT/US02/41505 filed under 35 U.S.C. 371; however, the materials filed by applicant to initiate the present application did not identify the submission as a national stage filing under 35 U.S.C. 371. Rather, the transmittal letter filed by applicant identified the submission as an original utility patent application filed under 37 CFR 1.53(b). 37 CFR 1.53(b) applies only to U.S. non-provisional application filed under 35 U.S.C. 111(a), not to national stage applications filed under 35 U.S.C. 371.

37 CFR 1.495(g) states the following regarding national stage submissions:

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, MPEP section 1893.03(a) states that if "there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)."

Based on the above, the application was properly treated as a new application filed under 35 U.S.C. 111(a).

B. Petition Under 37 CFR 1.78(a)(3) and (a)(6)

37 CFR 1.78(a)(3) applies where an applicant seeks to add a late claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States; 37 CFR 1.78(a)(6) applies where an applicant seeks to add a late claim of priority to a prior-filed provisional application. Applicant here is seeking to add priority claims to both an international application (PCT/US02/41505) and a provisional application (60/346,071). Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (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).

The present non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the periods 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 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 present petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any non-provisional application claiming the benefit of a prior-filed international application must contain or be amended to contain a reference to each such prior-filed international, identifying it by "international application number and international filing date and indicating the relationship of the applications." As set forth in MPEP section 201.11(III)(A), the relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application.

The amendment filed here fails to indicate the relationship between the present application and the international application (e.g., "continuation"); therefore, the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is unacceptable. Absent a proper claim to the international application, the benefit claim to the provisional application fails to comply with 35 U.S.C. 119(e) in that the present application was not filed within twelve months of the filing date of the provisional application.

Before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] or Application Data Sheet ("ADS") which properly sets forth the relationship of the prior-filed application(s) is required. An example of an acceptable reference would be as follows: "This application is a continuation of international application PCT/US02/41505, filed December 27, 2002, which claims the benefit of U.S. provisional application 60/346,071, filed December 31, 2001."

---

[1] *Note* 37 CFR 1.121

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT Legal
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT Legal
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Richard Ross at (571) 272-3296.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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18 SEP 2008

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John F. Klos, Esq.
Fulbright & Jaworski LLIP
2100 IDS Center
80 South 8th Street
Minneapolis MN 55402-2112

In re Application of:	:	
FENTON, Gustav, R.	:	DECISION ON RENEWED
Application No.: 10/883,064	:	PETITION
Filing Date: June 30, 2004	:	(37 CFR 1.78(a)(3) and (a)(6))
Attorney Docket No.: 25,961-10US	:	
For: NASAL DEVICES INCLUDING	:	
DILATION AND USER	:	
COMMUNICATION AND METHODS	:	
OF USING SAME	:	

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.78(A)(3) and 1.78(A)(6) To Accept Priority Claim" filed July 27, 2008. No additional petition fee is required.

BACKGROUND

The background for the present decision was set forth in the decision mailed on June 06, 2008. That decision dismissed applicant's petition under 37 CFR 1.78(a)(3) and (a)(6) for failure to satisfy all the requirements of a grantable petition. Specifically, applicant had not submitted the required reference to the prior-filed applications in the proper form.

On July 27, 2008, applicant filed the "Renewed Petition Under 37 CFR 1.78(A)(3) and 1.78(A)(6) To Accept Priority Claim" considered herein, with accompanying materials.

DISCUSSION

The previous decision indicated that the amendment filed with applicant's original petition was unacceptable. Specifically, the amendment failed to set forth the relationship between the present application and the prior-filed international application.

The renewed petition is accompanied by an amendment that includes a revised priority reference that properly identifies the relationship between the present application and the prior-filed international application: "This application is a continuation of International Application No. PCT/US02/41505, filed December 27, 2002, which claims the benefit of priority of U.S. Provisional Application Ser. No. 60/346,071, filed December 31, 2001." This submission satisfies the final requirement for a grantable petition.

CONCLUSION

Based on the above, the petition under 37 CFR 1.78(a)(3) and (a)(6) to add the delayed claim of benefit to the international application PCT/US02/41505, filed December 27, 2002, and to U.S. provisional application 60/346,071, filed December 31, 2001, 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 (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 application, all other requirements under 35 U.S.C. 120 and 119(e), and 37 CFR 1.78(a)(1), (a)(2)and (a)(5) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 international and provisional applications, accompanies this decision on petition.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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JUN 29 2010

10883086

MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

Facsimile
(330) 877-2030

FACSIMILE TRANSMITTAL

TO:

Name: Office of Patent Publication
Certificate of Corrections Branch

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

FROM:

Name: Thomas H. Martin

Phone No.: 330-877-2277

No. of Pages (including this): 9

Date: June 29, 2010

Subject: Request for Reconsideration of Supplemental Certificate of Correction
U.S. Patent No. 7,704,255
Issued: April 27, 2010
Gary K. Michelson
THREADLESS MULTI-LOCK ANTERIOR CERVICAL PLATING SYSTEM
Attorney Docket No.: 101.0056-17000
Customer No. 22882

Confirmation Copy to Follow: No

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Request for Reconsideration of Supplemental Certificate of Correction ($130.00 processing fee is to be charged to Deposit Account No. 50-1068) with one sheet of Form PTO/SB/44, copy of 5/28/2010 Communication, and copy of Notice of Recordation of Assignment are being facsimile transmitted to the U.S. Patent and Trademark Office on June 29, 2010.

Sandra L. Blackmon

If there is a problem with this transmission please call the sender at the number above.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the addressee listed above. If you are not the intended recipient or the employee or agent responsible to deliver this message to the intended recipient, please do not use this transmission in any way, but contact the sender by telephone.

PATENT
Attorney Docket No. 101.0056-17000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 29 2010

In re U.S. Patent of:	)	
Gary K. Michelson	)	(Serial No.: 10/883,086)
Patent No.: 7,704,255	)	
Issue Date: April 27, 2010	)	(Filed: July 1, 2004)
For: THREADLESS MULTI-LOCK ANTERIOR CERVICAL PLATING SYSTEM	)	

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION OF SUPPLEMENTAL CERTIFICATE OF CORRECTION

Further to the Supplemental Request for Certificate of Correction and in reply to the Communication dated May 28, 2010 (copy enclosed), this is a request for the issuance of a Supplemental Certificate of Correction pursuant to 35 U.S.C. § 255 and 37 C.F.R. § 1.323 to include the corrections listed on attached Form PTO/SB/44 in addition to those initially submitted on May 19, 2010; the complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form are of a clerical or typographical nature, or of minor character, and resulted from an error made in good faith by applicant. In support of the error to Assignee's name and address, submitted herewith is a copy of the Notice of Recordation showing that the Assignment to Zimmer Spine, Inc. was submitted and recorded prior to the issuance of the above-identified patent.

As indicated on page 2 of the Communication, the requisite fee of $100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the costs of issuing this Certificate is not required since it was previously submitted on May 20, 2010. The requisite processing fee in the amount of $130.00 as set forth in 37 C.F.R. § 1.17(i) is to be charged to our Deposit Account No. 50-1068.

06/30/2010 HMARZI1 00000014 501068 7704255
01 FC:1464 130.00 DA

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JUN 29 2010

Should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 50-1068.

Issuance of the Supplemental Certificate of Correction containing these additional corrections is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: June 29, 2010

By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

PAGE 3/9 * RCVD AT 6/29/2010 2:35:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/3 * DNIS:2738300 * CSID:330 877 2030 * DURATION (mm-ss):02-28

PTO/SB/44 (04-05)
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,704,255
APPLICATION NO. : 10/883,086
ISSUE DATE : April 27, 2010
INVENTOR(S) : Gary K. Michelson

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:

Title Page 1, Item (73) Assignee:
Change "Warsaw Orthopedic, Inc., Warsaw, IN" to – Zimmer Spine, Inc., Minneapolis, MN –.

Title Page 4, Column 2, Other Publications:
Line 3: change "Allowibility" to – Allowability –;
Line 43: change "Allowibility" to -- Allowability --; and
Line 50: change "initaled" to – initialed –.

Mailing Address of Sender:
Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

PATENT NO. 7,704,255

UNITED STATES 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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JUN - 1 2010
MARTIN & FERRARO, LLP

Date : 5/28/2010
Patent No. : 7,704,255 B2
Serial No. : 10/883,086
Inventor(s) : Michelson
Issued : April 27, 2010
Title : **THREADLESS MULTI-LOCK ANTERIOR CERVICAL PLATING SYSTEM**
Docket No. : **101.0056-17000**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

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.

9-10

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JUN 29 2010

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 of correction will be issued for the remaining errors noted in your request.

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

ecw

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

JANUARY 18, 2007

PTAS

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500208543A

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 01/17/2007 REEL/FRAME: 018768/0880
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 101.0056-17

ASSIGNOR:
WARSAW ORTHOPEDIC, INC. DOC DATE: 01/10/2007

ASSIGNEE:
ZIMMER SPINE, INC.
7375 BUSH LAKE ROAD
MINNEAPOLIS, MINNESOTA 55439

SERIAL NUMBER: 10883086 FILING DATE: 07/01/2004
PATENT NUMBER: ISSUE DATE:
TITLE: PLATING APPARATUS AND SYSTEM HAVING A RETAINING ELEMENT

018768/0880 PAGE 2

ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

01/17/2007
500208543

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
Warsaw Orthopedic, Inc.	01/10/2007

RECEIVING PARTY DATA

Name:	Zimmer Spine, Inc.
Street Address:	7375 Bush Lake Road
City:	Minneapolis
State/Country:	MINNESOTA
Postal Code:	55439

PROPERTY NUMBERS Total: 1

Property Type	Number
Application Number:	10883086

CORRESPONDENCE DATA

Fax Number: (330)877-2030
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 330-877-0700
Email: sblackmon@martinferraro.com
Correspondent Name: Martin & Ferraro, LLP
Address Line 1: 1557 Lake O'Pines Street, NE
Address Line 4: Hartville, OHIO 44632

ATTORNEY DOCKET NUMBER:	101.0056-17
NAME OF SUBMITTER:	Thomas H. Martin

Total Attachments: 1
source=Warsaw to Zimmer (56-17)#page1.tif

CH $40.00 10883086

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THOMAS J. FINN, ESQ.
RAYTHEON COMPANY, E0/E4/N119
2000 E. EL SEGUNDO BOULEVARD
P O BOX 902
EL SEGUNDO, CA 90245-0902

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AUG 0 7 2006
OFFICE OF PETITIONS

In re Application of David D. Crouch et al Application No. 10/883,093 Filed: July 1, 2004 Attorney Docket No. PD-02W225	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed April 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 April 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\883093.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Andreas Nass	: DECISION ON REQUEST FOR
Patent Number	: 7655859	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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4101 WINFIELD ROAD
WARRENVILLE IL 60555

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In re Application of
Bhattacharyya, et al.
Application No. 10/883,106
Filed: 1 July, 2004
Attorney Docket No. 37510

DECISION

This is a decision on the petition filed on 20 March, 2008 to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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.

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

Petitioner failed to reply to a Restriction Requirement mailed on 24 October, 2006, with reply due absent an extension of time on or before 24 November, 2006.

The application went abandoned by operation of law after midnight 24 November, 2006.

The Office mailed the Notice of Abandonment on 18 July, 2007.

On 20 March, 2008, Petitioner filed, *inter alia*, the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith a reply in the form of an election, and made the statement of unintentional delay.

The record (including the petition filed on 20 March, 2008) does not necessitate a finding that the delay between midnight 24 December, 2006 (the date of abandonment), and 20 March, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel John F. Kane (Reg. No. 44,815) when accepting Petitioner's representation that the delay in filing the response 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 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).)

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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1625 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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APR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Deer, et al.	:	
Filed: June 30, 2004	:	ON PETITION
Application No. 10/883,119	:	
Atty. Dkt. No.: 2003-0749.04	:	

This decision is in response to the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF Figures 1-6, 8 & 9 CONSIDERED AS OMITTED BY THE P.T.O. - RESPONSE TO 'NOTICE OF OMITTED ITEMS'" filed November 17, 2004 in response to the Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed September 17, 2004.

The application was filed June 30, 2004. The Notice indicated that the application had been accorded a filing date but that Figures 1-6, 8, and 9 described in the specification appeared to have been omitted from the application.

In response, the present petition was filed wherein petitioner argues that the application as deposited included 12 sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of the drawings a return postcard date stamped by the Office on June 30, 2004. A copy of the drawings purportedly filed with the application on June 30, 2004 was also supplied.

The original drawing sheets submitted with the application papers have not been located. It is noted, however, that petitioner has submitted 11 sheets of drawings containing Figures 1 through 9 as described in the specification. Accordingly, the return postcard does substantiate petitioners' contention that the Office received at minimum 11 sheets of drawings. Accordingly, the copy of the postcard receipt submitted herewith is accepted as *prima facie* evidence of receipt of the figures identified as omitted in the Notice. Thus, in view of the evidence presented, the petition to accord the application a filing date of June 30, 2004 is GRANTED.

Since the original drawing sheets of the figures in question cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 30, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions
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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INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 06/03/2010

Applicant	: Khageshwar Thakur	: DECISION ON REQUEST FOR
Patent Number	: 7627146	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/883,121	: 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 **1322** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

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AUG 15 2008

In re Application of	:	
Michael N. Wallick, et al.	:	
Application No. 10/883,123	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. MCS-003-04 (305907.01)	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2008, 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 September 18, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 19, 2007. This decision precedes the mailing of a Notice of Abandonment. On April 30, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2179 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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INTELLECTUAL PROPERTY DEPARTMENT
CONOR MEDSYSTEMS, INC.
1003 HAMILTON COURT
MENLO PARK, CA 94025

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AUG 15 2008

In re Application of
John F. Shanley, et al.
Application No. 10/883,129
Filed: July 1, 2004
Attorney Docket No. P103

ON PETITION

This is a decision on the petition, filed February 16, 2007, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

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 August 11, 2006. On July 5, 2007, the present petition was filed, along with a petition for extension of time, a Notice of Appeal (with fee) and a Pre-Appeal Brief Request for Review. A Notice of Abandonment was subsequently mailed on September 27, 2007.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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.

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.**

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $900 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being referred to Technology Center AU 3738 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

/Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 11 2005
OFFICE OF PETITIONS

Applicant: Lin et al
Appl. No.: 10/883,150
Filing Date: July 1, 2004
Title: METHODS OF INHIBITING NEURODEGENERATIVE DISEASE
Attorney Docket No.: 08842.0006-00000
Pub. No.: US 2005/0043264 A1
Pub. Date: February 24, 2005

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on April 22, 2005.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains errors in the publication as "Alzheimer's disease" is misspelled as "Alheimer's disease" throughout the application.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." 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 error wherein "Alzheimer's disease" is misspelled as "Alheimer's disease" throughout the application is an Office error, but it is not a material error under 37 CFR 1.221. The mistake is a minor typographical error, as the term is understandable. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published"

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[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).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMITH, GAMBRELL & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

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OFFICE OF PETITIONS

In re Application of
Geoffrey Brown
Application No. 10/883,154
Filed: July 1, 2004
Attorney Docket No. **042513.059**

DECISION GRANTING PETITION

This is a decision on the petition filed October 28, 2004, to accord the above-identified application a filing date of July 1, 2004.

On July 1, 2004, the application was deposited.

On August 26, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings. The notice also required a new and compliant abstract and $126.00 in additional claim fees.

In response, the present petition alleges that the drawings were not necessary for the understanding of the invention claimed.

It has determined, however, that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that claims 1, 7, 8, 9, 10 are either method or composition claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date. The figure filed with the instant petition will not be included as part of the original application papers filed on July 1, 2004. A preliminary amendment requesting entry of the figure should be filed prior to the first action on the merits if petitioner would like the figure to be admitted.

In view of the above, the petition is **granted.**

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 1, 2004, using only those application papers filed on July 1, 2004.

[1]MPEP 601.01(f).

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE CA 95129

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Bindiganavale S. Nataraj et al :
Application No. 10/883,160 : DECISION ON PETITION
Filed: July 1, 2004 :
Attorney Docket No. NLM1.P135 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 1, 2006. A Notice of Abandonment was mailed on December 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of May 31, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2827 for appropriate action in the normal course of business on the reply received December 29, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. None

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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OFFICE OF PETITIONS

In re Application of
Emad S. Isaac et al.
Application No. 10/883,163
Filed: July 1, 2004
Attorney Docket No. IS01677TC
Title: RAPID VEHICLE BUS NETWORK ACTIVITY

DECISION ON PETITION

BACKGROUND

This is a decision on the petition filed August 30, 2004, requesting that the above-identified application be accorded a filing date of July 1, 2004, with Figure 2 as part of the original disclosure of the application.

The application was filed on July 1, 2004. However, on August 20, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice) stating that the application had been accorded a filing date of July 1, 2004, and advising applicants that the application appeared to have been deposited without Figure 2.

Petitioners allege that Figure 2 was filed on July 1, 2004. In support, the petitioner sets forth a copy of his stamped postcard receipt, which acknowledges receipt of "Drawing(s)" in the U.S. Patent Office on July 1, 2004. It is noted that Petitioner did not enter the number of pages in the column entitled "pages," as that column has been left blank.

Petitioner alleges that the notice sets forth that the notice states that "drawings were not received," but such is not the case. A review of the notice reveals that the same clearly states that only Figure 2 was not received.

THE RELEVANT SECTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, in part:

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 postcard 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.

ANALYSIS

It is noted that the electronic file contains 2 pages of drawings, consisting of two copies of Figure 1. Figure 2 has not been located in the electronic file.

Obviously, the degree on which applicants may rely on a postcard receipt to establish receipt of a particular item depends on the specificity of the itemization. Since the postcard indicates only that "drawing(s)" were included on filing, the postcard gives no indication of how many pages were received. The parentheses around the word "drawing" makes it clear that the word could even be singular. What is clear is that there are two pages of drawings that made their way into the electronic file. Unfortunately, Figure 2 does not appear to be among these pages.

The PTO file is the official record of all papers filed in this application. A review of the official file reveals that Figure 2 was not received on filing. Instead, a duplicate copy of Figure 1 appears to have been filed in its stead. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Petitioner's assertion that Figure 2 was included on filing is not more persuasive than the electronic file, and the postcard receipt which he prepared and submitted cannot be relied upon to establish that the missing figure was included on filing.

As such, it appears that Figure 2 was not filed with the Office on July 1, 2004. For this reason, the petition cannot be granted.

CONCLUSION

For these reasons, the petition is **DISMISSED**.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The application file is being returned to OIPE for further processing with a filing date of July 1, 2004, using only the application papers which were filed on that date. Figure 2 will not be entered.

If petitioner desires for the examiner to consider this page which was not submitted as part of the original disclosure, then petitioner may submit this figure via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 See MPEP 608.02(h) and 608.04.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kirkpatrick & Lockhart
Nicholson Graham, LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
MOHER	:	
Application No. 10/883,170	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. ICE-030 (0519220.0128)	:	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 29, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jason P. Fiorillo has been revoked by the assignee of the patent application on January 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Berkeley Law & Technology Group
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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LAW OFFICE OF JAY R. HAMILTON, PLC.
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 120
DAVENPORT, IA 52801

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OFFICE OF PETITIONS

In re Application of Hamilton :
Application No. 10/883,175 : Decision on Petition
Filing Date: July 10, 2004 :
Attorney Docket No. USPA-0040 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed May 30, 2006, which set a period for reply of three (3) months. The above-identified application became abandoned on August 31, 2006. A Notice of Abandonment was mailed on October 3, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

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

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OFFICE OF PETITIONS

James D. Haynes
Suite 7C
10225 Ulmerton Rd.
Largo FL 33771

In re Application of
JONES
Application No. 10/883,190
Filed: July 2, 2004
Attorney Docket No. (None)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 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 December 21, 2005. Additionally, 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. The reasons set forth in the request, "I no longer represent the applicant nor the Assignee," 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 the undersigned at 571-272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Richard D. Jones
300 Azure Road
Venice, FL 34293

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Makoto Ogiso et al :
Application No. 10/883,194 : ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. 107239.99 :

This is a decision on the petition, filed November 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 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 3748 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).

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)
6952058	2005-10-04	10883214	2004-07-01	2310.102.US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/karen m gerken/	Date (YYYY-MM-DD)	2009-11-20
Name	Karen M. Gerken	Registration Number	31161

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. 6952058
Issue Date: October 4,2005
Application No. 10883214
Filed: July 1,2004
Attorney Docket No. 2310.102.US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 20,2009 . 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.

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740 WEST NEW CIRCLE ROAD, BLDG. 082-1
LEXINGTON, KY 40550-0999

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AUG 20 2008

In re Application of	:	
James A. Kerr et al	:	
Application No. 10/883,250	:	ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 2003-0706.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 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 September 28, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 29, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3742 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Brian A. Tent
255 E. Fifth Street
Cincinnati, OH 45202

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JACQUES M. DULIN
INNOVATION LAW GROUP LTD.
237 NORTH SEQUIM AVENUE
SEQUIM, WA 98382-3456

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JUL 2 1 2006

OFFICE OF PETITIONS

In re Application of
Laetitia Lagardere
Application No. 10/883,256
Filed: July 1 2004
Attorney Docket No. 7208-001US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 5, 2005.

The petition is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time because applicant submitted a Power of Attorney on April 6, 2006, to appoint the already attorney of record. Clarification is required.

All communications from the Office will continue to be directed to the above address of record until otherwise properly notified by applicant/assignee.

This application is being referred to Technology Center AU 3677for the mailing of the Final Rejection on June 16, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee

cc:
LAETITIA LAGARDERE
206 rue STE. CATHERINE
F 33000
BORDEAUX FRANCE

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Paper No.

Charles J. Rupnick
PO Box 46752
Seattle WA 98146

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OCT 01 2007

OFFICE OF PETITIONS

In re Application Of	:	
Jeffrey Carnevali	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Application No. 10/883,258	:	
Attorney Docket No. NPI-030	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed April 5, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed September 7, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On October 27, 2006, applicant replied with an Amendment. However, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed March 21, 2007). No proper reply having been received and no extensions of time obtained, the application became abandoned effective December 8, 2006. A Notice of Abandonment was mailed on April 12, 2007.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner argues that the abandonment of the application was unavoidable because the examiner failed to inform applicant of the denied entry status of the timely filed reply until after expiration of the six (6) months statutory period for reply. The petition included payment of the petition fee and a proposed reply to the final Office action.

35 U.S.C. 133 provides 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.

A grantable petition to revive an unavoidably abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

The instant petition does not satisfy requirements (1), and (3) above. The reply submitted is not sufficient. In addition, petitioner has not met his burden of establishing that the delay in filing a proper reply to the final rejection was unavoidable within the meaning of § 1.137(a).

Specifically, with respect to requirement (1), the amendment filed with the petition does not satisfy requirement (1) because it does not place the application in condition for allowance. See enclosed Advisory Action. The reply required is one that would have been sufficient to avoid abandonment of the application. Thus, for revival, petitioner is required to

submit 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 (to be in compliance the RCE must included a submission as stated in 37 CFR 1.114). It is noted that generally the record suggests that there may be an unmatched Notice of Appeal filed in this case (with a filing date of April 18, 2007). The undersigned cannot substantiate this. Nonetheless, submission of such a paper with the Appeal fee would be sufficient to satisfy requirement (1).

As to requirement (3), the burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the "reasonably prudent person standard" in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was

"unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; 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). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Having considered the facts and circumstances of the abandonment of this application, it is concluded that petitioner has not met his burden of establishing unavoidable delay within the meaning of § 1.137(a). 37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a

request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to §1.137(d).

Petitioner should not delay filing a request for reconsideration as petitioner continues to bear the burden of establishing that the entire delay, including the delay from the due date for the reply until the filing of a grantable petition, was unavoidable or unintentional.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action (2 pages)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/883,258	Applicant(s) CARNEVALI, JEFFREY D.	
	Examiner Amy J. Sterling	Art Unit 3632	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 April 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: _____.
   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: _.

/Amy Sterling/
Amy J. Sterling 7/9/07

Continuation of 3. NOTE: The addition of the ends being non-rotationally fixed is a new issue that requires further consideration.

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OFFICE OF PETITIONS

MR. LYNN G. FOSTER
602 EAST 300 SOUTH
SALT LAKE CITY, UT 84102

In re Application of	:	
David Pezutti	:	
Application No. 10/883,261	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. 8706.CIP	:	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 21, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Mr. Lynn G. Foster has been revoked by the applicant of the patent application on January 22, 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: DAVID PEZUTTI
2240 ROCKRESS WAY
GOLDEN, CO 80401

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
10/883,261	07/01/2004	David Pezutti	8706.CIP

CONFIRMATION NO. 5526

OC000000025245402

Mr. Lynn G. Foster
602 E. 300 S.
Salt Lake City, UT 84102

Date Mailed: 08/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Wagner, Anderson & Bright, LLP
3541 Ocean View Boulevard
Glendale, CA 91208

In re Application of	:	
Gerald A. Niznick	:	
Application No. 10/883,275	:	ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No. D9456	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 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 October 18, 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 January 19, 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 $405, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on May 27, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasury check.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3732 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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PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA COURT
SARATOGA CA 95070-3018

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OFFICE OF PETITIONS

In re Application of :
Ping Chuang, et al. :
Application No. 10/883,291 :
Filed: June 30, 2004 :
Attorney Docket No. 2001082 :

ON PETITION

This is a decision on the petition, filed April 18, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of June 22, 2006, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 17, 2007. In response on April 18, 2007, the present petition was filed.

Petitioner states that a timely reply was mailed via certificate of mailing on July 24, 2006, which included an election of the invention to be examined. Petitioner has submitted a copy of the previously mailed correspondence, bearing a certificate of mailing dated July 24, 2006, which would have rendered the reply timely if received. It is noted that July 22, 2006 was a Saturday.

The file record does not include the originally submitted correspondence. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 22, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on July 24, 2006.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Ralph H. Willgohs appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Willgohs desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

This application is being referred to Technology Center AU 1711 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: RALPH WILLGOHS
100 WESTHILL DR
LOS GATOS, CA 95032

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Heller, Ehrman, LLP
4350 LaJolla Village Drive, 7th Floor
San Diego, CA 92122

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OFFICE OF PETITIONS

In re Application of	:	
Joffre B. Baker et al.	:	
Application No. 10/883,303	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. 39740-0013A	:	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, 2008.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Leslie B. Overman and all attorneys/agents of record has been revoked by the assignee of the patent application on October 7, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Genomic Health, Inc.
301 Penobscot Road
Redwood City, CA 94063

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KOSAN BIOSCIENCES, INC
3832 BAY CENTER PLACE
HAYWARD CA 94588

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Yong Li et al.
Application No. 10/883,317
Filed: June 30, 2004
Attorney Docket No.: 010107.01
Title: KETOLIDE ANTI-INFECTIVE COMPOUNDS

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed June 13, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 30, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 31, 2004. A Notice of Abandonment was mailed May 20, 2005.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Although Petitioner authorized the petition fee to be charged to his Deposit Account, the Deposit Account did not contain sufficient funds. Therefore, requirement number (2) has not been met.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

Any reply to 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 reply 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 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].

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] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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. On July 15, 2005, the Central FAX Number will change to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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Paper No. None

KOSAN BIOSCIENCES, INC
3832 BAY CENTER PLACE
HAYWARD CA 94588

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OFFICE OF PETITIONS

In re Application of
Yong Li et al.
Application No. 10/883,317
Filed: June 30, 2004
Attorney Docket No.: 010107.01
Title: KETOLIDE ANTI-INFECTIVE COMPOUNDS

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed July 29, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 30, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 31, 2004. A Notice of Abandonment was mailed May 20, 2005.

The original petition was submitted on June 13, 2005, and was dismissed via the mailing of a decision on July 18, 2005 for failure to include the petition fee.

With the present petition, Petitioner has included the petition and fee, the declaration, and the fee associated with the late filing of the same.

As such, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Seth Golub	: DECISION ON REQUEST FOR
Patent Number	: 7580981	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,335	: 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 **1027** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Steven W. Johnston	: DECISION ON REQUEST FOR
Patent Number	: 7605469	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,357	: 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 **43** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of

Hongjiang Song :

Application No. 10/883,358

: DECISION ON PETITION

Filed: June 30, 2004

:

Attorney Docket No. 42P19075

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 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 October 5, 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 January 6, 2006.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The amendment filed April 13, 2006

The application is being forwarded to Technology Center 2800 GAU 2817 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

cc:

John F. Kacvinsky
4500 Brooktree Road, suite 102
Wexford, PA 15090

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ROCKWELL AUTOMATION, INC./(QB)
ATTENTION: SUSAN M. DONAHUE
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

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OFFICE OF PETITIONS

In re Application of	:	
Theodore J. Houck III et al	:	
Application No. 10/883,365	:	DECISION ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No.	:	
110003.00070.03AB188		

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 8, 2006. Accordingly, the date of abandonment of this application is May 9, 2006. A Notice of Abandonment was mailed on June 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Michael A. Jaskolski
Quarles & Brady LLP
411 E. Wisconsin Avenue
Milwaukee, WI 53202

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OFFICE OF PETITIONS

HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
DALLAS TX 75381-9052

In re Patent No. 7,462;274	:
HAMID et al.	:
Issue Date: December 9, 2008	: DECISION ON REQUEST FOR
Application No. 10/883,368	: RECONSIDERATION OF
Filed: July 1, 2004	: PATENT TERM ADJUSTMENT
Atty Docket No. HALLIBURTON 138	:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d) filed January 9, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from nine hundred forty-nine (949) days to one thousand four hundred seventy-five (1475) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 949 days.

The above-identified application was filed on July 1, 2004. On December 9, 2008, the above-identified application matured into U.S. Patent No. 7,462,274 with a revised patent term adjustment of 949 days. The Office determined that the 527 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application[.]

overlap with the 949 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed entry of only the period of adjustment of 949 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the zero days of applicant delay, the patent issued with a revised patent term adjustment of 949 days.

On January 9, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 1475 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, periods of delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap only if they occur on the same calendar day or days. Patentees state that the total period of Office delay is the sum of the period of Three Year Delay (526 days) and the period of examination delay (949 days) to the extent that these periods of delay are not overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees maintain that they are entitled to the periods of adjustment under both 37 CFR 1.703(a) and (b) for a total patent term adjustment of 1475 (949 + 526) days.

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[2] The Office mailed a Restriction Requirement on April 7, 2008, 14 months and 949 days after the application was filed on July 1, 2004.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

The Office notes that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentees used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 527 days (not 526 as suggested by patentees), counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), July 2, 2007, and ending on the date the patent issued, December 9, 2008. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

---

[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period

of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on July 1, 2004, and ending on the date of the issuance of the patent on December 9, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 949 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 527 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application. All 527 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 949 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 527 days and the 949 days is neither permitted nor warranted. 949 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 527 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 949 days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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JAN 24 2007

OFFICE OF PETITIONS

Applicant: Stwertka et al.
Appl. No.: 10/883,379
Filing Date: July 1, 2004
Title: INTELLIGENT MEDIA SPLICE
Attorney Docket No.: 86537SHS
Pub. No.: US 2006/0002690 A1
Pub. Date: January 5, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 24, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as pages 23 and 24 of the original application, which includes a parts list was omitted from the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in omitting pages 23 and 24 of the original application papers is an Office error, but it is not a material Office error under 37 CFR 1.221. The omission of the parts list on paged 23 and 24 does not affect the understanding of the application, as the parts are labeled in the specification. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

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FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary Karlin Michelson	:	DECISION ON PETITION TO
Application Number: 10/883382	:	WITHDRAW HOLDING OF
Filing Date: 07/01/2004	:	ABANDONMENT
Attorney Docket Number:	:	
101.0044-06000	:	

This is a decision on the petition to withdraw the holding of abandonment filed on January 29, 2009.

The petition is **GRANTED**.

On January 2, 2009, a decision by the Board of Patent Appeals and Interferences was rendered, affirming the examiner's decision rejecting the appealed claims.

On January 15, 2009, a Notice of Abandonment was mailed, stating that the application was abandoned because the period for seeking court review of the decision had expired and there are no allowed claims.

On January 29, 2009, the present petition was filed, accompanied by an Request for Continued Examination (RCE) and an amendment as the submission under 37 CFR 1.114.

Petitioners assert, in the present petition, that the Notice of Abandonment was mailed in error, as the RCE and submission were timely filed in response to the board decision.

Upon review, petitioners' argument is well taken.

MPEP 706.07(h) section (XI)(A) states in pertinent part that the filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals

for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will result in the finality of the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304[1] and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.

Furthermore, 37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

As such, applicant was entitled to a two (2) month time period after the date the board decision was mailed to file a response to the board decision.

As such, the showing of record is that the RCE and amendment under 37 CFR 1.114 filed on January 29, 2009, were a timely and proper response to the board decision mailed on January 2, 2009.

Therefore, there is no abandonment in fact. The holding of abandonment is <u>withdrawn</u>. The Notice of Abandonment is <u>vacated</u>.

The application is referred to Technology Center Art Unit 3772 for further processing.

---

[1] 37 CFR 1.304(a) states:

> (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK NY 10022-7650

COPY MAILED
SEP 10 2008

In re Application of Gershon Application No. 10/883,406 Filed: June 30, 2004 Attorney Docket No. JG-RP-5169/500561.20088	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned December 11, 2007 for failure to timely submit a proper reply to the non-final Office action mailed September 10, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed April 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the required petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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NOV 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Mitch Raponi	:	
Application No. 10/883,436	:	DECISION ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No. ADS5001CIP1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 22, 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 October 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 a Election, (2) the petition fee of $1540, 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 Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

DOCKET NO. ADS5001CIP1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Raponi et al.	Confirmation No.:	4230
Serial No.:	10/883,436	Group No.:	1642
Filed:	07/01/2004	Examiner:	
For:	METHODS FOR ASSESSING AND TREATING CANCER		

Certificate of Mailing or Transmission [37 CFR 1.8(s)]
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 Petitions, Assistant Commissioner for Patents, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

September 5, 2008
(Date of Deposit)

/Todd Volyn/
Name of applicant, assignee, or Registered Representative

Todd Volyn
(Signature)

September 5, 2008
(Date of Signature)

Mail Stop Petitions
Assistant Commissioner for Patents
Alexandria, VA 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

Note: A grantable petition requires the following items:

1. Petition fee;
2. Reply and/or Issue fee;
3. Terminal disclaimer with disclaimer fee—required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
4. Statement that the entire delay was unintentional.

1. Petition fee
   - ☐ Small entity fee $_____(37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
   - ☒ Other than small entity fee $1,540.00(37 CFR 1.17(m))

2. Reply and/or fee
   - A. The reply and/or fee to the above-noted Office Action in the form of (identify type of reply):
     - ☐ has been filed previously on
     - ☐ is enclosed herewith.

B. The issue fee of $
☐ has been paid previously on
☐ is enclosed herewith.

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).

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))]

☐ Charge the petition fee of $ to Account 10-0750/ / and for any additional fee required. A duplicate of this petition is attached.

☐ A check in the sum of $_____ is attached.

☐ Charge Account 10-0750/ADS5001CIP1/SKL for any additional fee required.

_/Todd Volyn/
Todd Volyn
Reg. No.: 37,463
Attorney for Applicant(s)

JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Tel. No.: (732) 524-6202
Date: September 5, 2008

Enclosures: ☒ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional Sheets containing statements establishing unintentional delay
☐ Other:_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/18/07

Paper No.: _____

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction on Patent No.: 7265029

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Primary Examiner Graybill approved.

/Kimberly D. Nguyen/
SPE

2894
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Scott Leahy	: DECISION ON REQUEST FOR
Patent Number	: 7606821	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,454	: 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 **755** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/17/2010

Applicant : Scott Leahy
Patent Number : 7606821
Issue Date : 10/20/2009
Application No : 10/883,454
Filed : 06/30/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET , NE
ATLANTA, GA 30308-2216

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MAY 27 2005
OFFICE OF PETITIONS

In re Application of :
Myers, et al. :
Application No. 10/883,469 : DECISION GRANTING PETITION
Filed: June 30, 2004 :
Attorney Docket No. INTEL6 :

This is a decision on the petition filed April 14, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of June 30, 2004, rather than the presently accorded filing date of July 2, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on June 30, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail label with a tracking number EV309399040US showing a "date-in" of June 30, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on June 30, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is June 30, 2004.

The Office of Initial Patent Examination will further process the application with a filing date of June 30, 2004, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID R. GRAHAM
1337 CHEWPON AVENUE
MILPITAS, CA 95035

COPY MAILED

DEC 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Sutherland, et al	:	DECISION GRANTING
Application No. 10/883,475	:	PETITION
Filed: June 30, 2004	:	
Attorney Docket No. KAS-002	:	

This is a decision on papers styled, "Petition For Corrected Filing Date of Application," filed November 29, 2004, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 30, 2004, rather than the presently accorded filing date of July 2, 2004.

Petitioners allege that the application was deposited in Express Mail service on June 30, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV016656770US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 30, 2004.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of June 30, 2004.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of June 30, 2004 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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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DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Prendergast, et al.	:	DECISION GRANTING
Application No. 10/883,476	:	PETITION
Filed: June 30, 2004	:	
Attorney Docket No. 020375-062200US	:	

This is a decision on the petition under37 CFR 1.183, filed October 1, 2009, to waive § 131's requirement that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on June 30, 2004. With the application, Applicants submitted a 37 CFR 1.63 declaration signed by all of the inventors. A final Office action was mailed on June 11, 2009. This office action set a shortened statutory period for reply of three months.

In response, on October 1, 2009, applicants submitted a reply and a declaration under 37 CFR 1.131, made timely by obtaining a one month extension of time. The 37 CFR 1.131 declaration stated that all of the inventors conceived the inventive embodiment of the instant application prior to the date of the reference on which the June 11, 2009 rejection was based. However, the 37 CFR 1.131 declaration was only signed by co-inventors Prendergast and

Selvaraj. Applicants have filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by co-inventor Provost. Applicants have supplied a copy of a letter, transmitting the 37 CFR 1.131 declaration to Provost.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[1]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[2]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, the instant application is not the subject of a patent under reexamination. Moreover, it has not been shown that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the only party eligible to sign the 37 CFR 1.131 declaration are co-inventors Prendergast, Selvaraj, and Provost.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

The 37 CFR 1.131 declaration was required to be signed by all three of the joint inventors. However, only two of the inventors executed the declaration. Applicants have demonstrated that a *bona fide* effort was made to secure the signature of co-inventor Provost, but that Provost has refused to sign. Specifically, applicants have shown that a copy of the declaration was forwarded to Provost, but that no executed declaration was

---

[1] 37 CFR 1.131(a) (emphasis added).

[2] MPEP 715.04.

received. Accordingly, it is concluded that applicants have demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration will be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The application file is being forwarded to Group Art Unit 3624 for consideration of the reply and the 37 CFR 1.131 declaration, filed October 1, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 20, 2008

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No 10/883499 patent no7097536

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

571-270-4990

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: Ex's approved.

SPE

3728

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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IRVING M. WEINER
WEINER & BURT, P.C.
P.O. BOX 186
HARRISVILLE, MI 48740

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of
Robert C. Brown
Application No. 10/883,504
Filed: July 1, 2004
Attorney Docket No. BRC-110-A

ON PETITION

This is a decision on the petition filed September 21, 2005, to withdraw the holding of abandonment for the above-identified application, which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on May 12, 2005 for failure to file a timely response to the non-Final Office Action mailed February 11, 2005, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 16, 2005, subsequent to the filing of the instant petition.

Petitioner asserts that a proper response, was filed on April 14, 2005. In support, petitioner submits a copy of the reply said to have been filed, but not acknowledged, with the U.S. Patent and Trademark Office, which also includes a certificate of mail pursuant to 37 CFR 1.8, and a copy of the post card receipt date-stamped by the USPTO on April 14, 2005.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3617 for appropriate action on the amendment filed September 21, 2005, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ANTOINETTE M. TEASE
P. O. BOX 51016
BILLINGS, MT 59105

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Fordyce et al.	:	
Application No 10/883506	:	DECISION
Filed: 07/01/2004	:	ON PETITION
Atty Docket No.:	:	
FOR04-0002	:	

This is a decision on the Petition Under 37 CFR 1.137(b), to revive an application abandoned unintentionally, and on the request for Refund of Petition Fees, both filed on December 1, 2006. The petition and refund request are properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed March 14, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on April 15, 2006. A Notice of Abandonment was mailed October 19, 2006.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office communication was filed on April 17, 2006; however, "for whatever reason, the USPTO system appears to have processed the Provisional Election as a new patent applications rather than papers filed in an existing application." Refund Request at p.1.

Analysis

A review of Office records reveals that Applicant is correct that this office processed the reply as a new application; however, Applicant is advised that the processing of the reply as a new application was a result of the application papers being filed as a "new application", rather than a "follow-on" application.

A review of the Provisional Election filed reveals that it contained the correct application serial number; filing date; Applicant; title of invention; Examiner and Group Art Unit. The MPEP 502 states that "[a] minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. " In this instance, the reply contained information such that the correct identification of the application could have quickly been discovered. In view of the above, it is apparent that the reply was timely filed in this Office on April 17, 2006, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Conclusion

The holding of abandonment is hereby withdrawn.

A refund of the petition fee has been scheduled via Treasury Check.

The application will be referred to Technology Center Art Unit 3679 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
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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JUN 29 2007
OFFICE OF PETITIONS

In re Application of	:	
Bughrara et al.	:	
Application No.: 10/883512	:	ON PETITION
Filing or 371(c) Date: 07/01/2004	:	
Attorney Docket Number:	:	
MSU-08807	:	

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 April 16, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed August 9, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on November 10, 2006. A Notice of Abandonment was mailed February 16, 2007.

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 (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 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1638 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 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
10/883,516	06/30/2004	2811	918	AB-1367 US	1	21	2

CONFIRMATION NO. 3524

CORRECTED FILING RECEIPT

OC000000014804196

MacPherson Kwok Chen & Heid LLP
Suite 95110
1762 Technology Drive
San Jose, CA 95110

Date Mailed: 12/21/2004

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)

Marcus Gerardus Van Munster, Tilburg, NETHERLANDS;

Assignment For Published Patent Application

XYCARB CERAMICS B.V., HELMOND, NETHERLANDS

Power of Attorney: The patent practitioners associated with Customer Number **32605**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/883,516

Projected Publication Date: 01/05/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method for the treatment of a surface of a metal-carbide substrate for use in semiconductor manufacturing processes as well as such a metal-carbide substrate

Preliminary Class

257

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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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 06/02/2010

Applicant	: Gary M. Hess	: DECISION ON REQUEST FOR
Patent Number	: 7636795	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/883,518	: 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 **788** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Ana Lacoste	: DECISION ON REQUEST FOR
Patent Number	: 7602353	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1347** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 04/20/2010

Applicant	: Ching-Fang Shang	: DECISION ON REQUEST FOR
Patent Number	: 7599398	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
JHAVERI et al	:	
Application No.: 10/883,621	:	DECISION ON PETITION
Filing Date: June 30, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: MSFT-2854/306955.01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 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 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 prior-filed application on page one following the first sentence of the specification 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 amendment is made to the specification to add a benefit claim

under 35 U.S.C. 120 after the filing date of the application, wherein the amendment would cause an incorporation by reference of the newly cited 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).

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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 Bryan Lin at (571) 272-3303.

Bryan Lin
Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
JHAVERI et al	:	
Application No.: 10/883,621	:	DECISION ON PETITION
Filing Date: June 30, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: MSFT-2854/306955.01	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a late claim for 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 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 the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that 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 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 nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision 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 2162 for appropriate action on the amendment filed April 20, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application, and to await applicant's response to the non-final Office action mailed March 29, 2007.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal 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
10/883,621	06/30/2004	2162	1202	MSFT-2854/306955.01	32	4

CONFIRMATION NO. 4136

CORRECTED FILING RECEIPT

OC000000023934657

41505
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 05/17/2007

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)

Vivek Jawahir Jhaveri, Seattle, WA;
Ashish Shah, Sammamish, WA;
Irena Hudis, Bellevue, WA;
Lev Novik, Bellevue, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number **23377**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/692,508 10/24/2003
which is a CIP of 10/646,646 08/21/2003 ABN

Foreign Applications

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 US10/883,621

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for providing conflict handling for peer-to-peer synchronization of units of information manageable by a hardware/software interface system

Preliminary Class

707

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
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Title 37, Code of Federal Regulations, 5.11 & 5.15

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the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

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OFFICE OF PETITIONS

In re Application of :
Francois Roy :
Application No. 10/883,636 :
Filed: July 1, 2004 :
Attorney Docket No. 02-GR1-332 :

ON PETITION

This is a decision on the petition, filed August 23, 2005, under 37 CFR 1.313(a) to withdraw the above-identified application from issue to consider prior art references that were filed with the application on July 1, 2004.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition includes the requisite petition fee and authorization for the fee submission of an information disclosure statement under 37 CFR 1.17(p).

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an information disclosure statement (IDS) with the petition does not make withdrawal of the application from issue necessary. There were other avenues open to applicant to have the IDS considered other than by way of a petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> "A petition under this section is not required if a request for continued examination under 1.114 is filed prior to payment of the issue fee."

The filing of an RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. For example, see MPEP 706.07(h)(II).

The application is being referred to the supervisory patent examiner for consideration of the information disclosure statement under 37 CFR 1.97(d).

Telephone inquiries regarding this decision may 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE, LLP
PATENT-LA
P.O. BOX 1208
SEATTLE, WA 98111-1208

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MAR 27 2007

OFFICE OF PETITIONS

IN RE APPLICATION OF	:	
DAVID LOSAN HO	:	
APPLICATION NO. 10/883,638	:	DECISION ON PETITION
FILED: JUNE 30, 2004	:	TO WITHDRAW
ATTORNEY DOCKET NO. 54022-8003.US02	:	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 16, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Michael J. Wise with the Firm of Perkins Coie, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application.

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 responsibility of handling is transferred to the applicant, does not meet any the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to the address noted in the petition. However, if assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. *Note* 37 CFR 3.73(b).

All future communications from the office will continue to be directed to the above-listed address until otherwise notified by applicant.

A final Office action which set a three month shortened statutory period was mailed on February 6, 2007. Extensions of time are available under the provisions of 37 CFR 1.136(a). Failure to timely reply within the period set will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Simon Mu
General Components, Inc.
300 Park Avenue, 17th Floor
New York, NY 10022

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin S. Currie et al.	:	
Application No. 10/883,646	:	DECISION ON PETITION
Filed: June 30, 2004	:	TO WITHDRAW
Attorney Docket No. 09580.0010.00000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006.

The request is **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 assignee for the subject application has requested that the subject application be transferred.....***, do not meet any the conditions set forth in 37 CFR 10.40 because 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Anthony J. Zelano, Esq.**
Millen, White, Zelano & Branigan, P.C.
Suite 1400
Arlington Courthouse Plaza I
2200 Clarendon Boulevard
Arlington, VA 22201

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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Tamer Elbatt et al :
Application No. 10/883,649 : DECISION ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. HRL140 :

This is a decision on the petition, filed June 5, 2007, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 16, 2004, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 16, 2007.

Petitioner asserts that the Applicants did timely file a proper reply to the Notice mailed August 16, 2004. However, the Basic filing fee is $790. The USPTO's Office records show petitioner submitted $770 on October 22, 2004, which is applied toward the Basic filing fee, therefore, petitioner has a balance of $20. Since this reply was incomplete, the petition requesting withdrawal of the holding of abandonment cannot be granted.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s)(1).

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 16, 2004. On November 3, 2004, a Notice of Incomplete Reply was mailed. This Notice states "Applicant must submit $20 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27)." The petition under 37 CFR 1.137(b) cannot be granted until the $20 filing fee balance is 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

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

DATE 10/23/07

APPLICATION NUMBER 10/883,649

DOC CODE Ref. Dec.

DOC DATE 10/23/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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MALIBU, CA 90265

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OCT 2 3 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tamer Elbatt et al :
Application No. 10/883,649 :
Filed: June 30, 2004 :
Attorney Docket No. HRL140 :

This is a renewed petition under 37 CFR 1.181, filed October 16, 2007, 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.

On August 16, 2004, the Office mailed a Notice to File Missing Parts of a Nonprovisional Application, which set a two-month period to reply. Petitioner filed a one-month extension of time on November 22, 2004, which was never charge. The application became abandoned on October 17, 2004, for failure to submit a timely response to the Notice to File Missing Parts of a Nonprovisional Application.

The one-month extension of time received on November 22, 2004 did not include a certificate of mailing which state "Correspondence will be considered as being timely filed if: (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being: (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;" See 37 CFR 1.8 certificate of mailing or transmission.

A review of the record indicates no certificate of mailing was provided on the extension of time, therefore, the extension of time was received with the USPTO on November 22, 2004, which is too late for a one-month extension of time, which was never charge to petitioner's credit card.

Effective September 30, 2007, the Basic filing fee increased to $810. Petitioner paid $770 by credit card on October 22, 2004, which leaves a balance of $40. This petition can not be revive until the $40 Balance is received.

The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

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23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Tamer Elbatt et al	:	
Application No. 10/883,649	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. HRL140	:	

This is a decision on the petition, filed December 26, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 16, 2004 is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAY 26 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
Sang Woon SUH, et al.
Application No. 10/883,667
Filed: July 6, 2004
For: **RECORDING MEDIUM, METHOD OF CONFIGURING CONTROL INFORMATION THEREOF, RECORDING AND/OR REPRODUCING METHOD USING THE SAME, AND APPARATUS THEREOF**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 21, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mark R. Shanks
REED SMITH
Suite 1100 - East Tower
1301 K Street, N.W.
Washington DC 20005-3373

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OFFICE OF PETITIONS

In re Application of	:	
Joon Young Yoon	:	
Application No. 10/883,695	:	ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. 0255-0004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 27, 2006. The Notice of Abandonment was mailed 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 an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.
Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1771 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Reed Smith LLP**
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HDSL
4331 STEVENS BATTLE LANE
FAIRFAX VA 22033

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Hsu	:	
Application No. 10/883,702	:	ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. OP-093000332	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed August 25, 2005. Accordingly, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on January 6, 2006.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the August 25, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Telephone inquiries concerning 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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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Janusz Wnek	:	
Application No. 10/883,746	:	DECISION GRANTING PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SAIC0104	:	

This is a decision on the petition, filed November 2, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 30, 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 June 21, 2007 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 2165.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/883,746	07/06/2004	Janusz Wnek	SAIC0104

CONFIRMATION NO. 5895

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Date Mailed: 03/12/2007

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 06/21/2007.

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".

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON D.C., 20005

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FEB 05 2008

OFFICE OF PETITIONS

Applicant: Wnek
Appl. No.: 10/883,746
Filing Date: July 6, 2004
Title: "Taxonomy Generation Based on Vector Space Representation"
Attorney Docket: 2366.0020002
Pub. No.: US 2007/0156665-A1
Pub. Date: July 05, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 15, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Taxonomy Generation Based on Vector Space Representation" is misprinted as "Taxonomy Discovery" in the title of the invention.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein "Taxonomy Generation Based on Vector Space Representation" is misprinted as "Taxonomy Discovery" in the title of the invention is not an Office error. Even if it was an Office error, the change in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The patent application publication does not include a mistake regarding the failure to include the amendment to the title in the publication by the Office because patent application publications are not required to include amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a copy to the of the application in compliance with 37 CFR 1.215(c).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and/or **complete copies of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing

[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application 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, as a "Pre-Grant Publication" 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

UNITED STATES 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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DEC 14 2005

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: NONAKA, et al.
Application No. 10/883,753
Filed: July 6, 2004
For: REMOTE COPY WITH WORM GUARANTEE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 13 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of

Ben Hsu

Application No. 10/883,764

Filed: July 6, 2004

Attorney Docket No. BHT-3125-221

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 27, 2008.

The petition is **granted**.

This application was held abandoned on November 26, 2006, after no reply was received to the Notice of Non-Compliant Amendment mailed October 25, 2006. The notice set forth a shortened period for reply of one-month from its mailing date. The instant petition was filed on February 27, 2008. Petitioner maintains that the Notice of Non-Compliant Amendment was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded Technology Center 3600, GAU 3634 for further processing including resetting of the period for reply to the Notice of Non-Compliant Amendment.

Questions 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

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

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Koji Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7610049	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **192** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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NOV - 8 2005

Technology Center 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: ISOBE, et al.
Application No. 10/883,787
Filed: July 6, 2004
For: DISK-ARRAY DEVICE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 05 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. The statements for each of the references deemed most closely related setting forth how the claimed subject matter is patentable over the

references (found on pages 4-10 of the petition) are sufficient. 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OFFICE OF PETITIONS

In re Application of	:	
Jin Yong Kim, et al.	:	
Application No. 10/883,797	:	DECISION DISMISSING PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 46500-000169/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2009, 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 October 8, 2009. 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 $810 filing fee and the $130 petition fee submitted are 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 should be directed to Terri Johnson at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/08/09

2 Serial/Patent # 10/883,797

	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			$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other RCE			$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

X	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

The withdraw from issue was filed too late so the petitioner needs a refund.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson TITLE: Paralegal Specialist

SIGNATURE: PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 10/09/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

OIPE
OCT 02 2009
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/883,797
Filing Date:	July 6, 2004
Applicant:	Jin Yong KIM et al.
Group Art Unit:	2627
Examiner:	Thomas D. Alunkal
Title:	RECORDING MEDIUM, METHOD OF CONFIGURING CONTROL INFORMATION THEREOF, RECORDING AND/OR REPRODUCING METHOD USING THE SAME, AND APPARATUS THEREOF
Attorney Docket:	46500-000169/US

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Randolph Building
401 Dulany Street
Alexandria, VA 22314
MAIL STOP PETITIONS

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10/09/2009 LDIEP1 00000169005
CHECK Refund Total: $940.00

PETITION FOR WITHDRAWAL FROM ISSUE

IN ACCORDANCE WITH 37 C.F.R. § 1.313(c)(2) - ISSUE FEE PAID

Applicants hereby petition the Commissioner to withdraw the above-identified application from issuance in accordance with 37 C.F.R §1.313(c)(2). The Issue Fee was paid on September 16, 2009 and has been accorded an issue date of October 6, 2009.

This withdrawal petition is made to file a Request for Continued Examination and Information Disclosure Statement, both of which are enclosed herewith.

Adjustment date: 10/09/2009 LDIEP1
10/05/2009 FMOHAMME 00000039 10883797
01 FC:1801 -810.00 OP

Pursuant to 37 C.F.R.§1.17(h), Applicants submit the required $130.00 government fee herewith. You are also directed and authorized to charge or credit any difference or overpayment to Deposit Account No. 08-0460.

10/05/2009 FMOHAMME 00000039 10883797
02 FC:1462 130.00 OP

PTO/SB/30 (04-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OIPE
OCT 0 2 2009
PATENT & TRADEMARK OFFICE

Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/883,797
Filing Date	July 6, 2004
First Named Inventor	Jin Yong KIM et al.
Art Unit	2627
Examiner Name	Thomas D. Alunkal
Attorney Docket Number	46500-000169/US

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 C.F.R. 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
ii. ☐ Other _____

b. ☒ Enclosed

i. ☐ Amendment/Reply
ii ☐ Affidavit(s)/Declaration(s)
iii. ☒ Information Disclosure Statement (IDS)
iv. ☒ Other Petition for Withdrawal

2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. 1.103(c) for a period of _____months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. 1.17(i) required)

b. ☐ Other _____

3. Fees The RCE fee under 37 C.F.R. 1.17(e) is required by 37 C.F.R. 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 08-0750

i. ☐ RCE fee required under 37 C.F.R. 1.17(e)
ii. ☐ Extension of time fee (37 C.F.R. 1.136 and 1.17)
iii. ☒ Other Any deficiency for a fee required under 37 C.F.R. 1.16 or 1.17

b. ☒ Check in the amount of $ 940.00 enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)	Gary D. Yacura	Registration No. (Attorney/Agent)	35,416
Signature	Reg. No. 50,205	Date	October 2, 2009

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

Name (Print /Type)		Express Mail Label No.	10/05/2009 FMOHAMME 00000039 10883797 01 FC:1801 810.00 OP
Signature		Date	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, 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.

If there are any questions, please contact the undersigned attorney.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By: Reg. No. 56,205
for Gary D. Yacura, Reg. No. 35,416

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/BMH

Attachments: Request for Continued Examination
Information Disclosure Statement

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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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OCT 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Jin Yong Kim, et al.	:	
Application No. 10/883,797	:	DECISION DISMISSING PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 46500-000169/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2009, 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 October 8, 2009. 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 $810 filing fee and the $130 petition fee submitted are 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 should be directed to Terri Johnson at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/25/2010

Applicant	: Yu-Ren Huang	: DECISION ON REQUEST FOR
Patent Number	: 7624267	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/883,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1450** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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PLANT HAVEN, INC.
P.O. BOX 3056
SANTA BARBARA CA 93130

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OFFICE OF PETITIONS

In re Application of	:	
Yates, Frederic.	:	
Application No. 10/883,836	:	ON PETITION
Filed: July 6, 2004	:	
Title: JAMESBRITTENIA PLANT NAMED ' YASAL'	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 09-07

Paper No: __

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SEP 1 0 2007

OFFICE OF PETITIONS

ARENT FOX PLLC
SUITE 400
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036-5339

In re Application of	:	
Masuko, et al.	:	DECISION
Application No.: 10/883,847	:	
Filing Date: 6 July, 2004	:	
Attorney Docket No. 02570-00044	:	

This is a decision on the petition filed on 20 February, 2007, 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 **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction requirement (copy enclosed) mailed on 11 August, 2006, with reply due absent extension of time on or before 11 September, 2006;

[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.**

- the application went abandoned by operation of law after midnight 11 September, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 20 February, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Restriction requirement, and made the statements and showings required (see the Manual of Patent Examining Procedure provisions discussed below) with documentation in support thereof included.

Notably, 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 immediate and 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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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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).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

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.[5] 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).[6]

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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] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] 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).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] 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.[8]))

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket

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[7] 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.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner technically has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**; there is no Notice of Abandonment to be vacated.

The instant application is released to Technology Center 2800 for further processing, including the re-mailing of the Restriction requirement with a new period of reply, in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571)

272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) 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

[10] 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/883,847	07/06/2004	Shingo Masuko	025720-00044	4953

7590 08/11/2006

ARENT FOX PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

EXAMINER
ADDISON, KAREN B

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/883,847	MASUKO ET AL.	
	Examiner	Art Unit	
	Karen B. Addison	2834	

-- 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 __/__ 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) *1-19* 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) *1-19* 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 are drawn to Surface Acoustic Wave Device, classified in class 310, subclass 334.

   II. Claims 12-19 drawn to the Method of Fabricating the Surface Acoustic Wave Device, classified in class 29, subclass 25.35.

The inventions are distinct, each from the other because of the following reasons:

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 another 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 process as claimed be used to make another materially different product such an actuator.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

3. 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).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen B. Addison whose telephone number is 571-272-2017. The examiner can normally be reached on 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KBA
7/24/06

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/29/04

George L. Kanabe
Wilmer Cutler Pickering Hale and Dorr LLP
300 Park Avenue
New York, NY 10022

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/883861 received on 08/19/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BYRNE POH, LLP
11 BROADWAY, SUITE 865
NEW YORK, NY 10004

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of
Shree **NAYAR, et al.**
Application No. 10/883,861
Filed: July 2, 2004
Attorney Docket No. **0315120.135-US2**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2628 for appropriate action by the examiner in the normal course of business on the amendment filed October 3, 2008.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Byrne Poh LLP
11 Broadway, Ste 865
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Shree Nayar	: DECISION ON REQUEST FOR
Patent Number	: 7663640	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,861	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

COMMISSIONER FOR PATENTS
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TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

MAIL

MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Furukawa, et al.
Application No. 10/883,895
Filed: July 2, 2004
For: DATA TRANSFER APPARATUS, STORAGE DEVICE CONTROL APPARATUS AND CONTROL METHOD USING STORAGE DEVICE CONTROL APPARATUS

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 11 February 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 11 February 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. Rather, the identical statement, that the reference fails to describe or suggest essentially the entirety of independent claim 1, is presented for each of the five references 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.

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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

AUG 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Furukawa, et al.
Application No. 10/883,895
Filed: July 2, 2004
For: DATA TRANSFER APPARATUS, STORAGE DEVICE CONTROL APPARATUS AND CONTROL METHOD USING STORAGE DEVICE CONTROL APPARATUS

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 05 July 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 11 February 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 05 July 2005 corrects the deficiency noted in the original decision. The combined submissions meet 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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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: William G. Stewart	: DECISION ON REQUEST FOR
Patent Number	: 7624021	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/883,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1332** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

Applicant : William G. Stewart
Patent Number : 7624021
Issue Date : 11/24/2009
Application No : 10/883,898
Filed : 07/02/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1421** 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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KLEIN ONEILL & SINGH LLP
43 CORPORATE PARK
SUITE 204
IRVINE CA 92606

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OFFICE OF PETITIONS

In re Application of	:	
Timothy Y. Kraushaar	:	
Application No. 10/883,904	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 690-01-CIP3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 31, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed March 26, 2007. This Office action set a shortened statutory period for reply of three months. Applicant filed an amendment on June 18, 2007. However, by Advisory Action mailed December 27, 2007, the Examiner advised applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further reply with an extension of time having been received, the application became abandoned on June 27, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3763 for consideration of the amendment filed December 31, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS, TX 77410

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OFFICE OF PETITIONS

In re Patent No. 7,144,782	:	
Issue Date: December 5, 2006	:	
Application No. 10/883,925	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. AMDI:134\HON	:	

This is a decision on the petition under 37 CFR 1.182, filed April 10, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige in the Publishing Division at (703) 308-9250, ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32 (Fax No. 571-270-9937)

OIPE JC112
APR 26 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 1722

Examiner:

Applicant(s): Patrick A. Tooman

Serial No.: 10/883,931

Filing Date: July 2, 2004

For: MACHINED MANIFOLD AND METHOD OF MAKING SAME

DECLARATION IN SUPPORT OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 18 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

I, Patrick A. Tooman, declare that:

1. I am the inventor of the claimed subject matter in the above-identified application.

2. I am the President of Plastic Engineering & Technical Services, Inc. which is the assignee of the claimed subject matter in the above-identified application.

3. On July 2, 2004, I caused to be filed in the United States Patent and Trademark Office, application Serial No. 10/883,931, on behalf of Plastic Engineering & Technical Services, Inc.

4. In March 2005, I became aware of an infringing device that was offered for sale in the United States by Ewikon HeiBkanalsysterne, of Frankenberg, Germany.

5. Immediately after being apprised of the existence of the aforesaid infringing device, I consulted with my attorneys, Bliss McGlynn, P.C., 2075 West Big Beaver Road, Suite 600, Troy, Michigan 48084, as to what steps could be taken to cover the aforesaid infringing device.

CERTIFICATE OF MAILING: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 22, 2005, by _____.
Daniel H. Bliss

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Hasegawa, Yoshitomo	:	
Application No. 10/883,939	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. A36270 (072071.0146)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Paper No.

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,472,840	:	
Gregory	:	DECISION DISMISSING
Application No. 10/883,940	:	REQUEST FOR
Issue Date: January 6, 2009	:	RECONSIDERATION OF
Filed: July 2, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 8473/82842	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on March 5, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred and fifty-two (552) to nine hundred and forty-eight (948) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On March 5, 2009, patentees timely submitted this request for reconsideration of patent term adjustment 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 948 days, which is the sum of the 554 days of patent term adjustment due to exceeding the three year pendency plus 396 days due to USPTO delay in prosecution, minus the 2 days of applicant delay that the revised determination of patent term adjustment indicated on the patent should be 948 days.

Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR

§ 1.703(b), of 554 days and the period of adjustment due to other examination delay, pursuant to 37 CFR § 1.702(a), of 396 days.

The 554-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on December 9, 2004, and the instant patent issued on January 6, 2009, which is 3 years and 554 days after its filing date.

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, the period of Office delay reduced by the period of applicant delay.

The period of reduction of 2 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 (554 days) and the period of Examination Delay (396 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that 0 days of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 950 days, which is the sum of the period of Three Year Delay (554 days) and the period of Examination Delay (396 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 948 days (396 + 554 reduced by 0 overlap - 2 (applicant delay)).

The Office agrees that the application issued 3 years and 554 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 396 days for Office delay is correct. At issue is whether Patentees should accrue 554 days of patent term adjustment for the Office taking in excess of three years to issue the patent (554 days less the 0 days of overlap), as well as 396 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 554-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR

§ 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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 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 37 C.F.R. § 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 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 9, 2004 to January 6, 2009. 396 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. <u>All of the 554 days for Office delay in issuing the patent overlap with the 396 days of Office delay</u>. During that time, the issuance of the patent was delayed by 396 days, not 396 + 554 = 950 days. Other than the period of Office delay pursuant to 37 C.F.R. § 702(a)(1) which totals 396 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 396 days of Office delay and the 2 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date of issuance of this patent, the application was pending three years and 554 days. <u>The Office did not delay 396 days and then an</u>

---

[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).

additional 554 days. Accordingly, 554 days of patent term adjustment (not 554 and 396 days) was properly entered since the entire period of delay of 554 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 396 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 554 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 554 days over three years to the issuance of this patent.

Accordingly, at issuance, the Office properly entered 158 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent for a total of 554 days of Office delay.

In view thereof, no adjustment to the patent term will be made.

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

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (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 —

[2] 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;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(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[3]:

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

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[3] (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.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

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.

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[4] (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.

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OFFICE OF THE DIRECTOR
TC 3600

David A. Frijouf
Frijouf, Rust & Pyle, P.A.
201 East Davis Boulevard
Tampa, FL 33606

In re application of
Jim DeVincenzo.
Application No. 10/883,947
Filed: July 2, 2004
For: APPARATUS FOR DISPENSING SHEET MATERIAL FROM A ROLL

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on September 20, 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 Jim DeVincenzo indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 12/16/04

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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OFFICE OF PETITIONS

In re Application of
Mackarvich
Application No. 10/883,949
Filed: July 2, 2004
Attorney Docket Number: 12090-1450

ON PETITION

This is a decision on the petition under 37 CFR §1.137(a) to revive the patent application filed October 23, 2006. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition filed under 37 CFR 1.137(a) is **Dismissed as Moot**.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 8, 2006. 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 May 9, 2006. A Notice of Abandonment was mailed on September 5, 2006.

Petitioner asserts that the non-final Office Action mailed on February 8, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the file jacket and docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of applicant's records have been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 3617 for review of the reply to the Office Action submitted on petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

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JAMES O. RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

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OFFICE OF PETITIONS

In re Application of :
Russell A. Williams et al :
Application No. 10/883,954 : ON PETITION
Filed: July 1, 2004 :
Attorney Docket No. JEI 04135 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 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 November 10, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Petitioner submitted a total of $385 toward the Basic filing fee. Effective October 1, 2004, the Basic filing fee increased to $395 which leaves a balance on $10. Accordingly, the petition to revive cannot be granted until the $10 is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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2640 PITCAIRN ROAD
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OFFICE OF PETITIONS

In re Application of	:	
Russell A. Williams et al	:	
Application No. 10/883,954	:	ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No. JEI 04135	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of	:	
HANRATH, Tobias et al.	:	
Application No. 10/883, 966	:	DECISION ON PETITION
Filed: July 06, 2004	:	TO WITHDRAW
Attorney Docket No. **040897-0117**	:	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 21, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to FOLEY AND LARDNER LLP has been revoked by the assignee of the patent application on August 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FORTKORT & HOUSTON P.C.**
9442 N. CAPITAL OF TEXAS HIGHWAY
ARBORETUM PLAZA ONE, SUITE 500
AUSTIN TX 78759

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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
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SAN DIEGO CA 92130-2092

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OFFICE OF PETITIONS

In re Application of :	
Choudhury, Kayalackakorn, Ambe, and:	
Chin :	DECISION ACCORDING STATUS
Application No. 10/883,978 :	UNDER 37 CFR 1.47(a)
Filed: 2 July, 2004 :	
Attorney Docket No. 079202-0309886 :	

This is in response to the petition filed under 37 CFR 1.47(a) on 29 November, 2004.

The petition is **GRANTED**.

The above-identified application was filed on 2 July, 2004, without an executed oath or declaration. Accordingly, on 15 September, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for its late filing, and additional claim fee(s).

In response, on 29 November, 2004 petitioners filed a declaration naming Abhijit K. Choudhury, Mathew Kayalackakorn, Ambe Shekhar, and Ken C.K. Chin as joint inventors, signed by all joint inventors except Chin on behalf of themselves and joint inventor Chin, the present petition, statutory basic filing fee, additional claim fees, late filing surcharge, and a one (1) month extension of time.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Ken C.K. Chin. However, the non-signing inventor failed to return a signed 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $200.00 will be charged to counsel's deposit account, No. 50-2212, as authorized on the fee transmittal sheet filed with the petition on 29 November, 2004.

The application will be referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Ken C.K. Chin
18820 Bellgrove Circle
Saratoga CA 95070

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of
Choudhury et al.
Application No. 10/883,978
Filed: 2 July, 2004
For: METHOD OF IMPLEMENTING L3 SWITCHING, NETWORK ADDRESS PORT TRANSLATION, AND ALG SUPPORT USING A COMBINATION OF HARDWARE AND FIRMWARE

Dear Mr. Chin:

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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
11682 EL CAMINO REAL
SAN DIEGO CA 92130-2092

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OFFICE OF PETITIONS

In re Application of	:
Choudhury, Kayalackakom, Ambe, and	:
Chin	: DECISION ACCORDING STATUS
Application No. 10/883,979	: UNDER 37 CFR 1.47(a)
Filed: 2 July, 2004	:
Attorney Docket No. 079202 309871	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 29 November, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney James Y. Sze, that a copy of the application was sent to the non-signing inventor, Ken C.K. Chin. However, the non-signing inventor has failed to return a signed declaration listing him as a joint inventor along with Abhijit K. Choudhury, Mathew Kayalackakom, and Shekhar Ambe.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
Richard L. Moore et al.
Application No. 10/883,993
Filed: July 6, 2004
Attorney Docket No. 2540-0761

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 6, 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) was obtained. Accordingly, the application became abandoned on January 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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 $1020 extension of time fee submitted with the petition on August 28, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)

The application file is being referred to Technology Center AU 2628 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DON D. CHA
547 BUENA VISTA ROAD
GOLDEN, CO 80401

In re Application of	:	
William J. Roberts	:	
Application No. 10/883,995	:	DECISION ON PETITION
Filed: July 1, 2004	:	
Attorney Docket No. 1400-094	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2009, to revive the above-identified application.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 7, 2007 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, 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 the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business on the reply received March 30, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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Pillsbury Winthrop LLP
Intellectual Property Group
11682 El Camino Real, Suite 200
San Diego, CA 92130-2092

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OFFICE OF PETITIONS

In re Application of	:	
Mathew Kayalackakom, et al.	:	
Application No. 10/883,997	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 079202-0309889	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 29, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 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.

The application file is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
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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Mr. Ken C. K. Chin
18820 Bellgrove Circle
Saratoga, CA 95070

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of
Mathew Kayalackakom; Abhijit K. Choudhury; Ken C. K. Chin; and Shekhar Ambe
Application No. 10/883,997
Filed: July 2, 2004
For: INITIALIZATION VECTOR GENERATION ALGORITHM AND HARDWARE ARCHITECTURE

Dear Mr. Chin:

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.

Telephone inquiries regarding this communication should be directed to Marianne Jenkins at (571) 272-3223. 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, DC area).

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Pillsbury Winthrop LLP
Intellectual Property Group
11682 El Camino Road, Suite 200
San Diego, CA 92130-2092

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PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

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SEP 1 8 2006
OFFICE OF PETITIONS

In re Patent of Frenkel	:	
Patent No. 7,059,578	:	
Issue Date: June 13, 2006	:	Letter
Application No. 10/884,001	:	
Filing Date: July 6, 2004	:	
Attorney Docket No. P-5591-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed June 26, 2006.

The deficiency payment of $700 is hereby accepted.

The change of status to large entity has been entered and made of record.

The file is being forwarded to Files Repository.

Telephone inquiries 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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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Roger Y. Tsien et al	:	TO WITHDRAW
Application No. 10/884,019	:	FROM RECORD
Filed: July 2, 2004	:	
Attorney Docket No. 39754-0975A	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2005.

The petition is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to James Fox, along with all of the other attorneys associated with the law firm of Heller Ehrman LLP, 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 be directed to the below-listed address of record until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 1624.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
PO BOX 458
ALAMEDA, CA 94501

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P.O. BOX 2168
MENLO PARK, CA 94026

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
BRAKES et al	:	
Application No.: 10/884,020	:	UNDER 37 CFR 1.137(B)
Filing Date: July 2, 2004	:	
Attorney Docket No.: 37469-8028.US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 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 December 13, 2005, which set a statutory period for reply of three (3) months. 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 March 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed December 13, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3721 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 24 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Seagate Technology LLC
Intellectual Property - COL2LGL
389 Disc Drive
Longmont CO 80503-9364

In re Application of
Karl H. CUNHA
Application No. 10/884,030
Filed: July 2, 2004
For: **CONTROLLED INSERTION AND RETRACTION OF AN ELECTRONIC MODULE IN A CABINET**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 20, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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OKLAHOMA CITY, OK 73102-8820

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OCT 13 2005

Technology Center 2100

In re Application of: Walker
Application No. 10/884,031
Filed: July 2, 2004
For: RESOURCE ALLOCATION IN A COMPUTER-BASES 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 December 20, 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.**

The petition filed December 20, 2004 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 is specifically distinguishable and patentable from the references provided in requirement (d) above. Reference is made to Petitioner's statement that "None of the references of record teach or suggest the claimed apparatus and method of ***employing paired bit indicators and combinatorial logic*** in allocating system resources for use by software processes", wherein it is noted that claim 21 does not include the above noted required limitation. In addition, the general statement that "none of the references of record disclose or suggest the novelty of the embodiments of the present invention as recited by the language of the independent claims", further fails to provide the necessary specificity required under 37 CFR 1.111 (b) and (c).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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

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BANK ONE TOWER
100 NORTH BROADWAY, SUITE 1700
OKLAHOMA CITY, OK 73102-8820

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JAN 27 2006
TECHNOLOGY CENTER 2100

In re Application of: Walker
Application No. 10/884,031
Filed: July 2, 2004
For: RESOURCE ALLOCATION IN A COMPUTER-BASED SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed December 9, 2005 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 December 20, 2004 and dismissed on October 13, 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 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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OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of	:	
David C. Windorski	:	
Application No. 10/884,046	:	DECISION GRANTING PETITION
Filed: July 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 59915US002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment previously filed on January 30, 2006; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of December 6, 2005, 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 3611.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, LLP
Gero McClellan / Qimonda
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SUITE 1500
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OFFICE OF PETITIONS

In re Application of

Mysliwitz, et al.

Application No. 10/884,110

Filed: July 2, 2004

Attorney Docket No. **1525.015897**
(INFN/WB0089)

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 20, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due and for failure to filed corrected drawings as required by the Notice of Allowability (the "Notices") mailed November 25, 2008. The Notices set forth three (3) month statutory periods for reply. Neither the fees or drawings were not received within the allowable period. Accordingly, this application became abandoned on February 25, 2009. A Notice of Abandonment was mailed March 20, 2009.

The fees and drawings were received on August 20, 2009.

Form PTOL-85B, filed August 20, 2009, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

In re Application of	:	
MATAN, Stefan	:	
Application No. 10/884,127	:	DECISION ON PETITION
Filed: July 01, 2004	:	TO WITHDRAW
Attorney Docket No. **59666.00005.UTL**	:	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 03, 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 Trevor Coddington on behalf of all attorneys of record who are associated. 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEFAN MATAN**
70 SIERRA VISTA
NOVATO, CA 94948

cc: **JAMIE BULLEN**
233 OAK MEADOW DRIVE
LOS GATOS, CA 95032

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/884,127
Filing Date	July 1, 2004
First Named Inventor	Stefan Matan
Art Unit	2838
Examiner Name	Edward H. Tso
Attorney Docket Number	59666.00005.UTL

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 36183

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has failed to pay bills rendered by the practitioner for an unreasonable period of time.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	Jamie Bullen				
Address	233 Oak Meadow Drive				
City	Los Gatos	State	CA	Zip	95032
Country	USA				
Telephone	(408) 354-9800 x 207	Email	jamie.bullen@xslent.net		
Signature					
Name	Trevor Q. Coddington, Ph.D., Esq.	Registration No.	46,633		
Date	12/3/07	Telephone No.	(858) 720-2500		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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TECHNOLOGY CENTER 2600

Aaron A. Fishman
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of: VINEL, R., et. al.
Application No. **10/884,131**
Filed: June 02, 2004
Atty Docket No. 36908
For: METHOD FOR AUTOMATIC CONFIGURATION OF AN ACCESS ROUTER COMPATIBLE WITH THE DHCP PROTOCOL, FOR SPECIFIC AUTOMATIC PROCESSING OF IP FLOWS FROM A CLIENT TERMINAL

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY FILED UNDER 37 C.F.R. 1.181

This is a decision on the petition filed on February 23, 2009, requesting that the shortened statutory period for reply set forth in the Final office action mailed on September 8, 2008 (hereafter referred to the "pending office action") be restarted be reset from February 17, 2009, the date that Applicants first became aware of the issuance of the pending office action.

The required petition fee under 37 CFR 1.17(f) has been paid.

This petition is hereby **DISMISSED**.

According to Applicant, the Office action mailed by the Office on September 8, 2008 was allegedly never received by the Applicants. Instead, Applicants' representatives became aware of the issuance of the Office action on February 17, 2009 after a marketing letter was received from a third party company notifying the applicant of the impending abandonment of the application if the Office action was not responded to by March 9, 2009. A copy of this letter, with a date stamp showing the date of receipt of this letter by Applicants' representatives, is included herewith. Shortly after the letter was received, Applicants' representatives obtained a copy of the Office action via the USPTO's Private PAIR system.

In support of the petition, Applicant provides a copy of the date-stamped letter received from the third party company informing Applicants' representative of the issuance of the Office action, which serves as evidence of the date that Applicants' representatives were made aware of the Office action, and

The application is **currently** under **abandonment** status, Notice of Abandonment, PTO-1432 mailed April 14, 2009 for failure to reply to final office action mailed September 08, 2008.

REGULATIONS & PROCEDURES

MPEP § 711.03(c) Petitions related to abandonment:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

A. Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication ***must*** include a ***statement*** from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement ***should*** establish that the docketing system is sufficiently reliable. It is expected that the ***record would include***, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner ***must state*** that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A **copy of the record(s)** used by the practitioner where the non-received Office action would have been entered had it been received is ***required***.

A copy of the practitioner's record(s) required to show non-receipt of the Office action ***should include*** the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

If no such master docket exists, the practitioner ***should so state and provide*** other evidence such as, but ***not limited to***, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been ***lost*** after receipt ***rather*** than a conclusion that the Office action was ***lost in the mail*** (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would ***not warrant*** withdrawal of the holding of abandonment.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

MPEP §710.06 I. Petition to reset a period for reply due to late receipt of an office action (outlined in Applicant's petition).

MPEP 711.01(c) Petitions relating to Abandonment

37 C.F.R. 1.181 Petition to the Director

(a)(f) The mere filing of a petition ***will not stay any period for reply*** that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

DECISION

According with the above mentioned provisions, Applicant's showing required to establish nonreceipt of an Office communication, fails to provide evidence in support of the petition including a record that *would include*, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner/applicant fails to ***state*** that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

Although petition includes a ***statement*** from the practitioner/applicant describing the system used for recording an Office action received at the correspondence address of record with the USPTO, the statement fails to establish that a receiving docketing system is sufficiently reliable.

A **copy of the record(s)** used by the practitioner/applicant where the non-received Office action would have been entered had it been received as required, was ***not provided*** as evidence in support of the petition. A copy of the practitioner's record(s) required to show non-receipt of the Office action ***should include*** the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner ***should so state and provide*** other evidence such as, but ***not limited to***, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been ***lost*** after receipt ***rather*** than a conclusion that the Office action was ***lost in the mail*** (e.g., if the practitioner has a history of not receiving Office actions).

For the above-stated reasons, the petition is **DISMISSED**.

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.

Furthermore, since the petition under 37 CFR § 1.181 requires no fee, Petitioner's Deposit Account No. 16-0820 will be credited $400.00 for the petition fee under 37 CFR § 1.182 paid on January 14, 2009.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3902. A second point of contact is QAS Kim Huynh at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/884,131	07/02/2004	Romain Vinel	BRV2-36908	5598

116 7590 07/07/2009
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER
ANWARI, MACEEH

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
07/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Aaron A. Fishman
PEARNE & GORDON, LLP
1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108

In re Application of: VINEL, Romain, et. al.
Application No. **10/884,131**
Attorney Docket No. BRV2-36908
Filed: July 02, 2004
For: METHOD FOR AUTOMATIC CONFIGURATION OF AN ACCESS ROUTER COMPATIBLE WITH THE DHCP PROTOCOL, FOR SPECIFIC AUTOMATIC PROCESSING OF IP FLOWS FROM A CLIENT TERMINAL

DECISION ON PETITION TO RESET PERIOD FOR REPLY FILED UNDER 37 C.F.R. §1.181

This is a decision on the renew petition filed under 37 C.F.R. §1.181 on May 15, 2009, requesting that the shortened statutory period for reply set forth in the Office Action mailed on September 08, 2008 be reset to run from February 17, 2009, the date that applicants first became aware of the issuance of the Office action. Since the application is currently abandoned, it is also requested that the holding of abandonment be withdrawn.

Original petition under 37 C.F.R. §1.181 on May 11, 2009, requesting that the shortened statutory period for reply set forth in the Office Action mailed on September 08, 2008 be reset to run from February 17, 2009, the date that applicants first became aware of the issuance of the Office action was dismissed due to unsupported evidence.

This petition is hereby **DENIED**.

Petitioner furnished enclosed with renewed petition a copy of the docket record(s) where the non-received office action would have been entered in accordance with MPEP § 711.03(c). Additionally, a copy of Petitioner's Urgent Consolidated Docket report printed January 23, 2009 has been enclosed with renewed petition.

OPINION

Provided support above-mentioned document were reviewed and considered. Upon review of the submitted docket report, titled "URGENT CONSOLIDATED DOCKET FOR AARON A. FISHMAN", printed January 23, 2009 showed on page 1, first entry after the DECEMBER 2008 subheading, the entry dated 02 Tue December 2008, with a Reference No. P36908US0, with a Title: METHOD FOR AUTOMATIC CONFIGURATION, Client: FRANCE TELECOM R&D/PIV/PI, with a US reference number of 10/884, 131. The following entry was identified:

December 2008

02 Tue JJS/AAF/AAF P36908US0 METHOD FOR AUTOMATIC CONFIGURATION FRANCE TELECOM R&D/PIV/PI (US) 10/884,131

Petitioner was contacted for clarification on this entry to ensure it was not overlooked during Petitioners search, which according to Petitioner included the file jacket for instant application, the application contents and Petitioner copy of urgent consolidated report printed on January 23, 2009.

A telephone interview was conducted with the Petitioner, Aaron Fishman (Reg. No. 44,682) on July 2, 2009. Petitioner did not provide clarification with respect to the noted record entry found in Petitioner's copy of urgent consolidated report printed on January 23, 2009 docket report. Petitioner himself suggested issuance of a denial decision for this instant petition.

For the above-stated reasons, the petition is **DENIED**.

Furthermore, since the application is currently abandoned, Petitioners request that the holding of abandonment be withdrawn is also **DISMISSED AS MOOT**.

Guidance on revival of instant applicant may be obtained at MPEP 711.03(c) 37 C.F.R. §1.135 and 37 C.F.R. §1.137 Revival of abandoned application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/pl/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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MAR 18 2008

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of	:	
Hang	:	
Application No. 10/884,142	:	DECISION
Filed: 30 June, 2004	:	
Attorney Docket No. 030404	:	

This is a decision on the petition filed on 22 May, 2007, supplemented on 13 March, 2008, 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 petition was presented to the attorneys in the Office of Petitions only at this writing.

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 Notice of Missing Parts (oath/declaration and surcharge) mailed on 5 May, 2005 (the May 2005 Notice), with reply due absent extension of time on or before 5 July, 2005;

- the application went abandoned after midnight 5 July, 2005;

- the Office mailed the Notice of Abandonment on 16 April, 2007;

- on 22 May, 2007, Petitioner filed the petition with, *inter alia*, the averment of non-receipt, as well as that a search was made of the docket and file, and did not find the May 2005 Notice, and provided, *inter alia*, a copy of the docket sheet for the instant

application, said docket sheet showing no evidence of the May 2005 Notice, consistent with the showing described in the guidance at the Commentary at MPEP §711.03(c)(I)(A);

- Petitioner also appears to have obtained a copy of the May 2005 Notice and, and with the petition filed a reply to the Notice in the form of an executed oath/declaration and surcharge;

- On 13 March, 2008, Petitioner supplemented his petition with, *inter alia*, a two- (2-) page) docket sheet evidencing the replies due by his office on the due date of 5 July, 2005, and avers and evidences that the May 2005 Notice does not appear on that docket, consistent with the showing described in the guidance at the Commentary at MPEP §711.03(c)(I)(A).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the basis for a petition seeking withdrawal of a holding of abandonment.[7] And the commentary at MPEP §711.03(c)(I)(A) and (B) details the requirements therein. 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

---

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 16 April, 2007, Notice of Abandonment is **vacated**.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

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OCT 01 2004

OFFICE OF PETITIONS

In re Application of
Bhatia et al.
Application No.10/884,146
Filed: July 1, 2004
Attorney Docket Number: 04-40226-US
Title of Invention: Triple Anti-Irritant Composition

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on July 20, 2004, requesting that the above-identified application be accorded a filing date of July 2, 2004, rather than the presently accorded filing date of July 1, 2004.

Petitioner contends the application was deposited in Express Mail service on July 2, 2004. In support, petitioner supplied a copy of Express Mail receipt No. EV481406225US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on July 2, 2004.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **JULY 2, 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/884,146	07/02/2004	1617	1803	04-40226-US		113	15

CONFIRMATION NO. 5450

CORRECTED FILING RECEIPT

OC000000014185401

07066
REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

Date Mailed: 10/25/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kuljit S. Bhatia, Chandler, AZ;
Bhiku G. Patel, Chandler, AZ;
Eugene H. Gans, Westport, CT;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/884,146

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Triple anti-irritant composition

Preliminary Class

514

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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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
John Petruzzello et al :
Application No. 10/884,148 : DECISION GRANTING PETITION
Filed: July 2, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. US010320A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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 March 27, 2006, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2826.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
VOLENTINE & WHITT, P.L.L.C.
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE, SUITE 1260
RESTON, VA 20190

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Xavier Ducloux	: DECISION ON REQUEST FOR
Patent Number	: 7577196	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **914** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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LAWRENCE S. COHEN, ESQ.
Law Office of Lawrence S. Cohen
10960 Wilshire Blvd.
Suite 1220
Los Angeles, CA 90024

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Vladimir Reingold, et al.	:	
Application No. 10/884,171	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Lawrence S. Cohen on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Vladimir Feingold**
31732 Isle Vista
Laguna Nigel, CA 92677

cc: **Shoemaker and Mattare, LTD**
10 Post Office Road-Suite 100
Silver Spring, MD 20910

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/884,171	07/01/2004	Vladimir Feingold	

CONFIRMATION NO. 4605

POWER OF ATTORNEY NOTICE

OC000000037991834

27219
LAWRENCE S. COHEN, ESQ.
LAW OFFICE OF LAWRENCE S. COHEN
10960 WILSHIRE BLVD
SUITE 1220
LOS ANGELES, CA 90024

Date Mailed: 09/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/31/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Dolby Laboratories Inc.
999 Brannan Street
San Francisco, CA 94103

Mail Date: 04/20/2010

Applicant	: Michael John Smithers	: DECISION ON REQUEST FOR
Patent Number	: 7617109	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1439** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

KARL D. KOVACH
SENIOR PATENT ATTORNEY
STRATOS INTERNATIONAL, INC.
7444 WEST WILSON AVENUE
CHICAGO IL 60706

MAR 18 2005

In re Application of:
DURRANT *et al.*
Serial No.: 10/884,199
Filed: July 6, 2004
Attorney Docket No.: **202MM01.C2**

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 December 8, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Dean Reichard at (571) 272-1984.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR
ROOM 3J-219
101 CRAWFORDS CORNER ROAD
HOLMDEL NJ 07733-3030

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Peretz Moshes Feder et al.
Application No. 10/884,203
Filed: June 30, 2004
Attorney Docket No.: 14-11-19-3-1-60-8

ON PETITION

This is a decision on the petition filed June 22, 2007 under 37 CFR 1.182, to correct the filing date to July 1, 2004, rather than the presently accorded filing date of June 30, 2004. This petition is treated under 37 CFR 1.10.

Petitioners request the earlier filing date on the basis that the application was properly filed by Express Mail, and base the claim on the date the certificate of mail was signed.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Petitioners should note that there is no requirement under 37 CFR 1.10 for a certificate of mailing by "Express Mail",[2]

Since petitioners are relying on the Certificate of Mail as proof of deposit on July 1, 2004, and since petitioners have not provided any other corroborating evidence of the filing date, the date presently accorded, June 30, 2004, will not be changed and the instant petition is **DISMISSED**.

---

[1] See 37 CFR 1.6(a).

[2] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

This matter is being referred to Technology Center 2617 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Westman, Champlin & Kelly
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

Mail Date: 04/21/2010

Applicant	: Sham S. Nayar	: DECISION ON REQUEST FOR
Patent Number	: 7644493	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **595** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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Seagate Technology LLC
Mallstop SHK1LG
1280 Disc Drive
MINNEAPOLIS, MN 55379

Mail Date: 05/18/2010

Applicant : Sham S. Nayar
Patent Number : 7644493
Issue Date : 01/12/2010
Application No : 10/884,210
Filed : 07/02/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **624** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Patent No. 6955478
Issue Date: October 18,2005
Application No. 10884225
Filed: July 2,2004
Attorney Docket No. 202MM001 C1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 27,2009 ,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 27,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,955,478	2005-10-18	10884225	2004-07-02	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/brian r mcginley/	Date (YYYY-MM-DD)	2009-10-27
Name	Brian R. McGinley	Registration Number	47782

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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ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO CA 94304

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
WAUGH, Jacob et al.	:	
Application No. 10/884,226	:	DECISION ON PETITION
Filed: July 02, 2004	:	TO WITHDRAW
Attorney Docket No. **25040-033-0602**	:	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 26, 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 Shawn Hansen on behalf of all attorneys of record who are associated.
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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACOB WAUGH**
4020 EK CAMINO ROAD NO. 2204
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
WAUGH, Jacob et al.	:	
Application No. 10/884,226	:	DECISION ON PETITION
Filed: July 02, 2004	:	TO WITHDRAW
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Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACOB WAUGH**
4020 EK CAMINO ROAD NO. 2204
PALO ALTO, CA 94306

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAIL

SEP 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Kenichi Kihara, et al.
Application No. 10/884,227
Filed: July 2, 2004
For: **DATA STORAGE SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 26, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Ephraim Starr
Honeywell International Inc.
23326 Hawthorne Boulevard, Suite 200
Torrance, California 90505

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MAY 1 1 2005

Director's Office
Group 3700

In re Application of
Scott G. Aguilar
Serial No. 10/884232
Filed: July 03, 2004

DECISION ON PETITION TO MAKE SPECIAL

For: BORE AND SHAFT ASSEMBLY

Applicant's petition, filed July 03, 2004, seeks to have this application made special based upon the Environmental Quality 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/ 5/10/05

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of
Owen, William H.
Application No. 10/884,234
Filed: July 1, 2004
Attorney Docket No. 038981-014000

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/338,189, filed January 7, 2003, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2816 for appropriate action on the amendment filed April 13, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 01-05

Paper No: __

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JAN 21 2005

OFFICE OF PETITIONS

RICK B. YEAGER
10805 MELLOW LANE
AUSTIN TX 78759

In re Application of
Huggans. :
Application No. 10/884,239 : DECISION ON PETITION
Filing Date: 2 July, 2004
Attorney Docket No. (None) :

This is a decision on the petition filed on 6 October, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 2 July, 2004, for 6 sheets of drawings, Figs. 1 - 14, as described in the specification of the application.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 2 July, 2004.

On 23 August, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," (the 23 August Notice) and indicated, *inter alia*, that a filing date had not been granted because the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

The 23 August Notice also informed Petitioner that the application would receive the filing date consistent with the submission of required drawings, or that Petitioner might evidence that either drawings were not necessary for the understanding of the invention or the application as submitted otherwise satisfied the statutory requirements for a filing date.

The petition filed on 6 October, 2004, states that it is accompanied, *inter alia*, by a date-stamped

receipt card itemizing the contents of the application received by the Office and copies of 6 sheets of drawings (Figs. 1 - 14) as described in the specification.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 2 July, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("070204") and provides, *inter alia*:

* * *

CHECK $385.00

---

[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.)

6 SHEETS DRAWINGS[2]
DECL/POA

* * *

The record further discloses that:

- the six sheets of drawings submitted with the petition contain, respectively, Figs. 1 - 3, Figs. 4 - 6, Figs. 7 - 8, Figs. 9 - 10, Figs. 1 - 12, and Figs. 13 - 14; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 6 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 6 sheets of drawings (containing Figs. 1 - 14) as described in the specification were submitted on 2 July, 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 it appears that it was not charged; and the Notice mailed on 23 August, 2004, hereby is withdrawn as to the 6 sheets of drawings (containing Figs. 1 - 14) as described in the specification.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 2 July, 2004, for the entire application and in particular for the 6 sheets of drawings (containing Figs. 1 - 14) as described in the specification using:

- pages 1 - 26 (Specification, Claims, Abstract) deposited on 2 July, 2004; and

- the 6 sheets of drawings (containing Figs. 1 - 14) as described in the specification, deposited on 6 October, 2004;

- with direction to OIPE to correct Office records to reflect that 26 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing on 2 July, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 2 July, 2004, reflecting therein that 26 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

---

[2] To the right of the number "6" on the receipt card setting out the sheets of drawings submitted, it appears that the number "5" was first written and then scratched out–but this appears to have occurred before the receipt card was submitted with the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Toshihiko MURAKAMI et al.
Application No. 10/884,244
Filed: July 1, 2004
For: VIRTUALIZATION SWITCH AND STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 11, 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.
>
> 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 of July 11, 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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SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

George Yee
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Akihiko YAMAGUCHI et al.
Application No. 10/884,247
Filed: July 1, 2004
For: METHOD OF MANAGING A STORAGE AREA NETWORK

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 31, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 31, 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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CANTOR COLBURN LLP - SABIC (LEXAN/CYCOLOY)
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Gautam Chatterjee	: DECISION ON REQUEST FOR
Patent Number	: 7638091	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,261	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6993388
Issue Date: January 31,2006
Application No. 10884276
Filed: July 2,2004
Attorney Docket No. 50128/00102

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 22,2010 ,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 April 22,2010 . 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.

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)
6993388	2006-01-31	10884276	2004-07-02	50128/00102

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Oleg F. Kaplun/	Date (YYYY-MM-DD)	2010-04-22
Name	Oleg F. Kaplun, Esq.	Registration Number	45559

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/884,304	07/02/2004	David A. Finlay SR.	905P120D (CON)	5623

44564 7590 08/06/2007
BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA, NY 14850-1248

EXAMINER
BENENSON, BORIS

ART UNIT	PAPER NUMBER
2836	

MAIL DATE	DELIVERY MODE
08/06/2007	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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In re Patent No. FINLAY, DAVID A.	:	
Issue Date: November 7, 2006	:	**DECISION GRANTING**
Appl No.: 10/884,304	:	**PETITION**
Filed: July 02, 2004	:	*37 CFR 1.324*
For: ELECTRICAL WIRING DEVICE	:	
	:	
	:	
	:	

This is a decision on the petition filed March 16, 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Michael J. Sherry
Supervisory Patent Examiner
Art Unit 2836
Technology Center 2800

BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA, NY 14850-1248

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction on Patent No.: **7133266 B1 – 10/884304**

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:

TO: Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER ~~2800~~ 2836

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 08-05

Paper No: __

LEGAL DEPARTMENT
TERADYNE, INC.
321 HARRISON AVENUE
BOSTON MA 02118

COPY MAILED

AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Cepeda-Rizo	:	
Application No. 10/884,306	:	DECISION
Filing Date: 3 July, 2004	:	
Attorney Docket No. 1876-US	:	

This is a decision on the petition filed on 28 June, 2005, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Missing Parts (replacement drawing, Fig. 4) mailed on 20 August, 2004, with reply due absent extension of time on or before 20 October, 2004;
- the application went abandoned after midnight 20 October, 2004;
- the Office mailed the Notice of Abandonment on 20 May, 2005;
- Petitioner filed the instant petition (with fee) alleging unintentional delay, filed a replacement drawing, Fig. 4, as the reply made the statement of unintentional delay.

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).[1]

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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements as to a petition under 37 C.F.R. §1.137(b).

---

[1] 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.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to OIPE for further processing before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Seagate Technology LLC
Intellectual Property - COL2LGL
389 Disc Drive
Colorado Springs CO 80503-9364

In re Application of: Walker, et al.
Application No. 10/884,312
Filed: July 2, 2004
For: EVENT LOGGING AND ANALYSIS IN A SOFTWARE 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 16 December 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, **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 16 December 2004 fails to adequately meet requirement (e) of the criteria set forth above. There is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Rather, the identical statement, that none of the references disclose the novelty of the embodiments of the present invention as recited by the language of the independent claims, is presented for each of the ten references purported to be "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.

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

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/884,312	07/02/2004	Michael D. Walker	STL12314	5626

7590 11/21/2007
FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, PC
BANK ONE TOWER
100 NORHT BROADWAY, SUITE 1700
OKLAHOMA CITY, OK 73102-8820

EXAMINER
IQBAL, NADEEM

ART UNIT	PAPER NUMBER
2114	

MAIL DATE	DELIVERY MODE
11/21/2007	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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BANK ONE TOWER
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

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TECHNOLOGY CENTER 2100

In re Application of: WALKER, et al. Application No. 10/884,312 Attorney Docket No. STL12314 Filed: 07/02/2004 For: EVENT LOGGING AND ANALYSIS IN A SOFTWARE SYSTEM	DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed October 16, 2007, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed July 16, 2007.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) On January 19, 2007, a non-final Office action was mailed. Claims 1-23 were pending. Only claims 1-22 were treated and rejected in the Office action on prior art. Claims 1, 13 and 23 were independent claims and rejected under 35 USC 102(b) as anticipated by Cobb et al. (U.S. Pat. No. 5,119,377).

(2) On April 19, 2007, a response to the non-final Office action, in which amendment to pending dependent claims 3 and 21, was filed.

(3) On July 16, 2007, a final Office action was mailed treating pending claims 1-23. Independent claims 1, 13 and 23 were rejected under 35 USC 102(b) as anticipated by Hirata (EPO 913774 A3), submitted to the Office in an IDS filed December 16, 2004 (prior to first Office action on the merits, in accordance with 37 CFR § 1.97(b)). The Examiner made the second Office action final on the basis that "*Applicant's amendment necessitated the new ground(s) of rejection*".

(4) On October 16, 2007, the instant petition was filed, along with an amendment and remarks.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the July 16, 2007 office action.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection ***not necessitated*** by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will ***not be made final*** if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

MPEP § 706.07(d) states in part that:
If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

MPEP § 706.07(e) states in part that:
When a final rejection is withdrawn, all amendments filed after the final rejection ***are ordinarily entered***.

CONCLUSION

A review of the prosecution record reveals that the Applicant's amendment to dependent claims 3 and 21 after the first action on the merits did not necessitate the new grounds of rejection in the second (final) Office action as independent claims 1, 13 and 23 remained unamended. Further, the relatively minor amendments made to dependent claims 3 and 21 had no effect upon the scope of the independent claims. Finally, it is noted, independent claim 23 was not treated in the first (non-final) Office action of January 19, 2007, thereby only treated for the first time in the (final) Office action of July 16, 2007. Thus the first (non-final) Office action was incomplete.

For the above stated reasons, the petition to withdraw the finality of the final Office action of July 16, 2007 is **GRANTED**.

The application file is being forwarded to the technology support staff to **WITHDRAW** the finality of the previous Office action and to **ENTER** and **PROCESS** the amendment filed October 16, 2007. The file will then be forwarded to the Examiner for appropriate action and prompt consideration of the response filed October 16, 2007.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/884,313	07/02/2004	Grant E. Carlson	STL12335	5625

7590 08/23/2005

Fellers, Snider, Blankenship & Tippens, P.C.
Bank One Tower
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

EXAMINER
EDWARDS, ANTHONY Q

ART UNIT	PAPER NUMBER
2835	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

57

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Paper No. 053105

FELLERS, SNIDER, BLANKENSHIP,
BAILEY & TIPPENS
BANK ONE TOWER
100 N. BROADWAY, SUITE 1700
OKLAHOMA CITY OK 73102-8820

In re Application of	:	
GRANT E. CARLSON et al.	:	DECISION ON PETITION
Application No. 10/884,313	:	
Filed: July 02, 2004	:	
Attorney Docket No. STL12335	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 21, 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 the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to 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, or professional searchers, etc., the field of search was also provided, (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 distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

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.

The petition is granted to the extent indicated.

José G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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601 JEFFERSON
HOUSTON TX 77002

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SEP 04 2008

In re Application of	:	
Barnett et al.	:	
Application Number: 10/884323	:	DECISION ON PETITION
Filing Date: 07/02/2004	:	
Attorney Docket Number: 02-0694/KEL95	:	

This is a decision on the petition filed on July 18, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 8, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on April 7, 2008, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on July 24, 2008.

Receipt of the issue and publication fees filed with the present petition is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

CHIRSTIAN HEAUSLER
4100 CLINTON DRIVE
HOUSTON TX 77020

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of
Larry L. Williams
Application No. 10/884,328
Filed: June 30, 2004
Attorney Docket No. 15872.0085US01

ON PETITION

This is a decision in response to the petition, filed July 1, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 3, 2008. A Notice of Abandonment was mailed on April 15, 2008. On July 1, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on July 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded in due course.

The application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business on the reply received July 1, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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July 2005

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BANK ONE TOWER
100 NORTH BROADWAY, SUITE 1700
OKLAHOMA, OK 73102-8820

AUG 29 2005

In re Application of:
DAVID LOUIS SPENGLER
Serial No.: 10/884,330
Filed: 02 July 2004
Docket: STL 12317
Title: ELECTRICAL CONNECTOR DEFINING A POWER PLANE

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on October 20, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and that any election later required will be made without traverse; c) a statement that a pre-examination search was made, including the search areas; and d) a discussion of the teaching of some of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a summary of the limitations of independent claims 1, 8, and 15. Petitioner presents a detailed discussion of the Dola '500 and Herrell '956 references, along with a brief mention that the Chang '829, Thumma '690, and Malsby '764 references lack a feature found in the independent claims. However, petitioner stated that "[a]ll of the reference most closely related to the subject matter encompassed by the claims are of record or are listed in the Supplemental Information Disclosure Statement which accompanies this Petition." Since petitioner has identified each of these references as being relevant, a *detailed* discussion of *each* of these references is required for the petition to be granted. A general statement that the claimed invention is not taught by a reference is not sufficient.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any 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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BANK ONE TOWER
100 NORTH BROADWAY SUITE 1700
OKLAHOMA, OK 73102-8820

In re Application of: DAVID L. SPENGLER Serial No.: 10/884,330 Filed: 02 July 2004 Docket: STL 12317 Title: ELECTRICAL CONNECTOR DEFINING A POWER PLANE	DECISION ON REQUEST FOR RECONSIDERATION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) & M.P.E.P. § 708.02 (VIII)

This is a decision on the request for reconsideration filed on October 28th, 2005 of the decision dated August 29th, 2005 dismissing the petition 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 **GRANTED**.

In the request for reconsideration, petitioner provides a discussion of how each of the references distinguishes over each of the independent claims 1, 8 and 15, thus meeting the requirement of MPEP § 708.02(VIII)(e).

The requirements of MPEP § 708.02(VIII)(a)-(e) are now 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. Any restriction later required by the Office must be responded to with an election without traverse by applicant as a condition for the application retaining its special status.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the

examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become 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.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Henley Phan

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Kevin Kawasaki	:	
Application No. 10/884,332	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. 544122000220	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 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 applicant of the patent application on February 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wheelock Chan LLP**
P.O. Box 61168
Palo Alto, CA 94306

Patent
4315-2

JAN 2 6 2005 JC37 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Unkown
David Smith, Allen Ferrell	)	Art Unit: 1764
Serial No. 10/884,336	)	
Filed: July 1, 2004	)	
Title: Wood Gasification Apparatus	)	

Commissioner for Patents
Mail Stop Patent Application
Alexandria, Virginia 22313-1450

REQUEST FOR TO ACCORD "SPECIAL STATUS" AND FOR EXPEDITED EXAMINATION UNDER 37 CFR 1.102 (c)

Dear Sir/Madam:

Applicant respectfully requests that the above-identified patent application be accorded "special" pursuant to 37 CFR 1.102(c) and advanced for expedited examination. Applicant, through its attorney, makes the following statement under 37 CFR 1.102 in support of this petition and request.

The invention will materially contribute to the conservation of energy resources by providing an apparatus and method for generating a high quality combustion gas from

---

CERTIFICATE OF MAILING

I hereby certify that this paper or fee (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service "First Class Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date shown below in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: January 20, 2005

Glenn C. Brown

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 18 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/884,359	07/02/2004	2113	1122	42P19764	11	30	5

CONFIRMATION NO. 7837

CORRECTED FILING RECEIPT

OC000000016972427

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 09/08/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Tryggve Fossum, Northborough, MA;
George Chrysos, Milford, MA;
Todd A. Dutton, Southborough, MA;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

Foreign Applications

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 US10/884,359

Projected Publication Date: 01/05/2006

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and method for heterogeneous chip multiprocessors via resource allocation and restriction

Preliminary Class

714

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).

9FW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	)		
JAMES P. MCCORMICK	)	Docket:	8706.CIP
Serial No.: 10,884,361	)	Art Unit:	1746
Filed: July 2, 2004	)	Examiner:	Joseph Perrin
For: LOW PROFILE NON-CLOGGING NON-POLLUTING SURFACE TREATMENT PADS, ASSEMBLIES AND METHODS	)		

OIPE IAP16 MAR 20 2006 PATENT & TRADEMARK OFFICE

WITHDRAWAL OF ATTORNEY

7-18-07
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Consistent with MPEP § 402.06 and 37 CFR § 10.40, Lynn G. Foster, attorney of record in the above-identified patent application, hereby withdraw as attorney in said patent application and request that the Commissioner for Patents approve said withdrawal. The reason for the withdrawal is that the undersigned and the Applicant is in disagreement on the manner in which the above-identified Application should be pursued. Two copies of this withdrawal are enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 18, 2006.

Lynn G. Foster

The last known mailing address of the Applicant is stated below:

James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City, UT 84119

OIPE IAP15
MAR 2 0 2006
PATENT & TRADEMARK OFFICE

Respectfully submitted,

Lynn G. Foster
Attorney for Applicant

602 East 300 South
Salt Lake City, Utah 84102
Telephone: (801) 364-5633

CERTIFICATE OF SERVICE

I hereby certify that the Applicant was notified of my withdrawal by the foregoing document and I caused a true and correct copy of the foregoing **WITHDRAWAL OF ATTORNEY** to be mailed, postage prepaid, this 18 day of March, 2006 to:

James P. McCormick
Hydro Engineering
865 West 2600 South
Salt Lake City, UT 84119

Lynn G. Foster

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES P. MCCORMICK
HYDRO ENGINEERING
865 WEST 2600 SOUTH
SALT LAKE CITY, UT 84119

COPY MAILED

JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
James P. McCormick	:	
Application No. 10/884,361	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. 8706.CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to James P. McCormick has been revoked by the assignee of the patent application on December 20, 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: HOLLAND & HART, LLP
60 E. SOUTH TEMPLE
SUITE 2000
PO BOX 11583
SALT LAKE CITY, UT 84110

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.
10/884,361	07/02/2004	James P. McCormick	57387.0006	6871

57600 7590 01/26/2009
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City, UT 84110

EXAMINER
WALDBAUM, SAMUEL A

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
01/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 1/26/09

In re application of	:	
McCormick et al.	:	DECISION ON
Serial No. 10/884,361	:	PETITION
Filed: 07/02/2004	:	
For: Low Profile, Non-Clogging, Non-Polluting Surface Treating Pads, Assemblies And Methods	:	

This is a decision on a PETITION filed October 31, 2008, 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 protective order materials submitted under MPEP 724.02 be expunged. 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.

10/884,361

The images will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

L.Grant Foster
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
P.O. Box 11583
Salt Lake City UT 84110

UNITED STATES 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

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

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In re Application of
Kenneth Ship, Dusty Anna Parker Needham, Benjamin Garden, and Roger Ousley
Application No. 10/884,362
Filed: July 2, 2004
Attorney Docket Number: PC1100.00/4906-035
Title: DEVICE FOR INSERTING IMPLANTS

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 5, 2004.

The above-identified application was filed on July 2, 2004, identifying Kenneth Ship, Dusty Anna Parker Needham, Benjamin Garden, and Roger Ousley as joint inventors. A declaration was submitted of filing which has been executed by each of the joint inventors save Mr. Garden. On August 23, 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 indicated that the surcharge associated with the late filing of the same would also be required.

On November 5, 2004, the instant petition was filed, along with a one-month extension of time to make timely this response. Petitioner has included both the petition fee and the surcharge and the last known address of the non-signing inventor.

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.

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.* Petitioner sets forth that several telephone calls, e-mails, and a letter were sent, but it does not appear that a search was performed. There is no indication that Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address (other than to send a letter to the Postmaster) and to send the application papers to that address for consideration by the inventor[2]. 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[3].

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.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

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2 See MPEP 409.03(d).

3 See MPEP 409.03(d).

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

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. None

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
Kenneth Ship, Dusty Anna Parker Needham, Benjamin Garden, and Roger Ousley
Application No. 10/884,362
Filed: July 2, 2004
Attorney Docket Number: PC1100.00/4906-035
Title: DEVICE FOR INSERTING IMPLANTS

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed March 10, 2005.

The above-identified application was filed on July 2, 2004, identifying Kenneth Ship, Dusty Anna Parker Needham, Benjamin Garden, and Roger Ousley as joint inventors. A declaration was submitted of filing which has been executed by each of the joint inventors save Mr. Garden. On August 23, 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 indicated that the surcharge associated with the late filing of the same would also be required.

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was filed on November 5, 2004, and was dismissed via the mailing of a decision on February 8, 2005, for failure to establish that a diligent effort was made to locate non-signing joint inventor Garden.

With this renewed petition, a declaration has been submitted which has been executed by the formerly non-signing sole inventor.

As such, the renewed petition is **DISMISSED AS MOOT**.

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).

It is noted that the declaration Petitioner has submitted with this renewed petition cannot be accepted, in that it fails to comply with 37 CFR §1.63. The declaration contains non-dated changes by inventor Garden[2].

The application file is being returned to Technology Center 3700 for further processing.

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 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Kenneth Shipp	: DECISION ON REQUEST FOR
Patent Number	: 7608080	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,362	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1460** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego CA 92130-2092

COPY MAILED

MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Ken C. K. Chin, Abhijit K. Choudhury, :
Mathew Kayalackakom, and Shekhar Ambe
Application No. 10/884,364 : DECISION ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. 079202-0309844 :
Title: UNIFIED WIRED AND WIRELESS :
SWITCH ARCHITECTURE

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 29, 2004.

On July 2, 2004, the application was deposited, identifying Ken C. K. Chin, Abhijit K. Choudhury, Mathew Kayalackakom, and Shekhar Ambe as joint inventors. The application was deposited without an oath or declaration. On September 1, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), requiring an executed oath or declaration along with the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees. 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.

With the instant petition, Petitioner has submitted the petition fee, the surcharge, the basic filing fee, the fee for the filing of additional claims, the last address of the non-signing inventor, a statement of facts, and a copy of a letter sent to the non-signing joint inventor. Petitioner has further included a one-month extension of time to make timely this response.

With the instant petition, Petitioner has met each of the 5 requirements above.

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.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for urther processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
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Ken C. K. Chin
18820 Bellgrove Circle
Saratoga, CA 95070

COPY MAILED
MAR 02 2005
OFFICE OF PETITIONS

In re Application of
Ken C. K. Chin, Abhijit K. Choudhury, Mathew Kayalackakom, and Shekhar Ambe
Application No. 10/884,364
Filed: July 2, 2004
Attorney Docket No. 079202-0309844
Title: UNIFIED WIRED AND WIRELESS SWITCH ARCHITECTURE

LETTER

Dear Mr. Chin:

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: Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego CA 92130-2092

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego CA 92130-2092

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APR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Abhijit K. Choudhury, Mathew	:	
Kayalackakom, Shekhar Ambe, and Ken C. K.	:	
Chin	:	DECISION ON PETITION
Application No. 10/884,365	:	UNDER 37 C.F.R. §1.47(a)
Filed: July 2, 2004	:	
Attorney Docket No. 079202-0309847	:	
Title: METHOD OF SUPPORTING	:	
MOBILITY AND SESSION PERSISTENCE	:	
ACROSS SUBNETS IN WIRED AND		
WIRELESS LANS		

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 29, 2004.

On July 2, 2004, the application was deposited, identifying Abhijit K. Choudhury, Mathew Kayalackakom, Shekhar Ambe, and Ken C. K. Chin as joint inventors. No oath or declaration was included on filing. On August 31, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration, a surcharge of $65.00, the basic filing fee, and fees for additional claims were required. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the instant petition, Petitioner has also submitted the petition fee, the surcharge associated with the late submission of an oath or declaration, a declaration which has been executed by the each of the joint inventors save Mr. Chin, the basic filing fee, fees for additional claims, a declaration of facts, copies of two letters, the last known address of the non-signing inventor, and copies of postal return receipts. Petitioner has also included a one-month extension of time to make timely this response.

Petitioner has met each of the 5 requirements above.

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 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 2600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Ken C. K. Chin
18820 Bellgrove Circle
Saratoga, CA 95070

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of :

Abhijit K. Choudhury, Mathew Kayalackakom, :
Shekhar Ambe, and Ken C. K. Chin :

Application No. 10/884,365 :
Filed: July 2, 2004 :
Attorney Docket No. 079202-0309847 :
Title: METHOD OF SUPPORTING MOBILITY AND :
SESSION PERSISTENCE ACROSS SUBNETS IN :
WIRED AND WIRELESS LANS

DECISION ON PETITION

UNDER 37 C.F.R. §1.47(a)

Dear Mr. Chin:

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: Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego CA 92130-2092

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW 04-05

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
11682 EL CAMINO REAL
SAN DIEGO CA 92130-2092

COPY MAILED
APR 12 2005
OFFICE OF PETITIONS

In re Application of	:
Kayalackakom, Choudhury, Chin,	:
Ambe, and Tardo	: DECISION ACCORDING STATUS
Application No. 10/884,392	: UNDER 37 CFR 1.47(a)
Filed: 2 July, 2004	:
Attorney Docket No. 079202-0309852	:

This is in response to the petition filed under 37 CFR 1.47(a) on 29 November, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney James Y. Sze, that a copy of the application was sent to the non-signing inventor, Ken C.K. Chin. However, the non-signing inventor has failed to return a signed declaration listing him as a joint inventor along with Mathew Kayalackakom, Abhijit K. Choudhury, Shekhar Ambe, and Joseph J. Tardo.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be referred to Technology Center 2667 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 04-05

Ken C.K. Chin
18820 Bellgrove Circle
Saratoga CA 95070

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APR 12 2005
OFFICE OF PETITIONS

In re Application of
Kayalackakom et al.
Application No. 10/884,392
Filed: 2 July, 2004
For: HARDWARE ACCELERATION FOR UNIFIED IPSEC AND L2TP WITH IPSEC PROCESSING IN A DEVICE THAT INTEGRATES WIRED AND WIRELESS LAN, L2 AND L3 SWITCHING FUNCTIONALITY

Dear Mr. Chin:

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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
SUITE 200
11682 EL CAMINO REAL
SAN DIEGO CA 92130-2092

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KAMRATH & ASSOCIATES P.A.
4825 OLSON MEMORIAL HIGHWAY
SUITE 245
GOLDEN VALLEY, MN 55422

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APR 30 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tsong-Yow Lin :
Application No. 10/884,456 :
Filed: July 2, 2004 :
Attorney Docket No. CFP-2569 (20040494.ORI) :

This is a decision on the petition filed December 12, 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 July 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 21, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
SEP 0 9 2005
Technology Center 2100

In re Application of: FUJIWARA et al.
Application No. 10/884,474
Filed: July 1, 2004
For: COMMUNICATION DEVICE, STORAGE SYSTEM AND A COMMUNICATION METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 10 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 1 4 2005

OFFICE OF PETITIONS

DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

In re Application of
Johnson, et al.
Application No.: 10/884,515
Filed: July 2, 2004
Attorney Docket No.: ES-00030
For: WEB-BASED ELECTRONIC EXPORT/ IMPORT COMPLIANCE AND LICENSING PROCESSING SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 21, 2004 (certificate of mailing date December 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 July 2, 2004 without an executed oath or declaration. Accordingly, on August 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In addition, the Notice required petitioners to submit replacement drawings in compliance with 37 CFR 1.84 and 1.121.

In response, on December 21, 2004 (certificate of mailing date December 17, 2004), a request for a two month extension of time and required fee, the late declaration surcharge, replacement drawings, and the instant petition were filed. A declaration of facts of William H. Meise, an attorney handling this application, accompanied the petition. Attorney Meise explains that the application and declaration were mailed to non-signing inventor Thien-Truc C. Nguyen at his FPO address, but he did not respond to the request that he return a signed 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 $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that the non-signing inventor refuses to sign the declaration. Petitioners have not established Inventor Nguyen's refusal to join, whether expressly or by conduct.

Attorney Meise's declaration and supporting exhibits indicate that the application papers were mailed to the non-signing inventor's FPO address on November 17, 2004. An e-mail from Denise C. Spraggins to Susan P. Green dated November 10, 2004 establishes that the non-signing inventor's wife believes that it takes about one month for him to receive mail at his FPO address.

The instant petition was filed on December 17, 2004. Given that, per Inventor Nguyen's wife, it takes one month for Inventor Nguyen to receive mail and the package with the application and declaration was mailed on November 17, 2004, the Office finds that petitioners have not established constructive refusal to sign the declaration. Mr. Nguyen may have just received the package when the instant petition was filed.

The fact that an inventor is out of the country is not an acceptable reason to filed a petition under 37 CFR 1.47(a) based on unavailability. Mr. Nguyen is on duty with the U.S. military. His correspondence address is known. Petitioners must show either actual or constructive refusal. Petitioners must engage in further efforts to obtain Mr. Nguyen's signature on the declaration. Petitioners should request Mr. Nguyen sign the declaration again. Perhaps e-mail correspondence is possible.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

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.

Pursuant to petitioners' authorization, deposit account no. 50-20161 will be charged the $200.00 petition fee due.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
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

UNITED STATES 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 3 1 2005

OFFICE OF PETITIONS

DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

In re Application of
Johnson, et al.
Application No.: 10/884,515
Filed: July 2, 2004
Attorney Docket No.: ES-00030
For: WEB-BASED ELECTRONIC EXPORT/ IMPORT COMPLIANCE AND LICENSING PROCESSING 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 March 16, 2005 (certificate of mailing date March 14, 2005).

The petition is **granted**.

Petitioners have shown that the non-signing inventor, Thien-Truc C. Nguyen, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Attorney William H. Meise explains that the application and declaration were mailed to non-signing inventor Thien-Truc C. Nguyen at his FPO address, but he did not respond to the request that he return a signed declaration within a reasonable amount of time. 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.

A second $200.00 petition fee erroneously charged to petitioners' deposit account on March 17, 2005 will be refunded.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 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
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MAR 3 1 2005

OFFICE OF PETITIONS

THIEN-TRUC C. NGUYEN
13343 RUSHING WATER WAY
GERMANTOWN, MD 20874

In re Application of
Johnson, et al.
Application No.: 10/884,515
Filed: July 2, 2004
Attorney Docket No.: ES-00030
For: WEB-BASED ELECTRONIC EXPORT/ IMPORT COMPLIANCE AND LICENSING PROCESSING SYSTEM

LETTER

Dear Mr. Nguyen:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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AUG 2 8 2009

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of	:	
Raja V. Jasti	:	
Application No. 10/884,532	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. RAJA1P001	:	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 14, 2009.

The request is **APPROVED**.

The request was signed by Dominic A. Kotab; Kevin Zilka; and Ronald B. Feece.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed June 23, 2009 that requires a reply from the applicant.

All future correspondence will be directed to inventor Raja V. Jasti at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Raja V. Jasti
10570 Whitney Way
Cupertino, CA 95014

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
10/884,532	07/02/2004	Raja V. Jasti	RAJA1P001

CONFIRMATION NO. 6361

POWER OF ATTORNEY NOTICE

28875
Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

OC000000037532410

Date Mailed: 08/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/884,532	07/02/2004	Raja V. Jasti	RAJA1P001

CONFIRMATION NO. 6361

POA ACCEPTANCE LETTER

Raja V. Jasti
10570 Whitney Way
Cupertino, CA 95014

OC000000037532439

Date Mailed: 08/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/14/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert Ambach :
Application No. 10/884,554 :
Filed: July 2, 2004 :
Attorney Docket No. AMBR-1-1002 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 17, 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 November 18, 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 3773 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOOK WASHBURN LLP
ONE LIBERTY PLACE 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

MAIL

SEP 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BERKMAN, WILLIAM H.
Application No. 10/884,563
Filed: July 02, 2004
For: **A POWER LINE COMMUICATION SYTEM AND METHOD OF OPERATING THE SAME**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on April 08, 2005.

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.

A Revocation and Power of attorney was filed January 9, 2005. Accordingly, the request is **DISMISSED**.

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.

Ken A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

MANELLI DENISON & SELTER PLLC
2000 M STREET NW
SUITE 700
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kent E. Baldauf
700 Koppers Building
436 Seventh Avenue
Pittsburgh PA 15219-1818

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of
Nemoto, et al.
Application No. 10/884,571
Filed: July 2, 2004
Attorney Docket No. 1217-044544
For: BIAXIALLY ORIENTED MULTI-LAYER POLYPROPYLENE FILM AND THE USE THEREOF

DECISION GRANTING PETITION

This is a decision on the petition, filed October 28, 2004 (certificate of mailing date October 26, 2004), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 30, 2004.

The application was filed on July 2, 2004. On August 30, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 34 and 35 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition on October 28, 2004 (certificate of mailing date October 26, 2004). Petitioners request that pages 34 and 35 be accorded a filing date of July 2, 2004 on the basis that the entire specification, including allegedly missing pages 34 and 35, was received in the Patent and Trademark Office (PTO) on July 2, 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 July 2, 2004 as the date of receipt. The postcard lists that the filing included, *inter alia*, 35 pages of specification. A review of the application file reveals that there are 33 pages present. Pages 34 and 35 are missing.

The return postcard constitutes *prima facie* evidence that the entire 35 page specification, including missing pages 34 and 35, was filed on July 2, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to petitioners' deposit account, no. 23-0650.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 2, 2004**, using the copy of pages 34 and 35 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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BEVER, HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of	:
Jai-Tsu King	:
Application No. 10/884,576	:
Filing or 371(c) Date: 07/02/2004	:
Patent No.: 7,016,224	:
Issue Date: 03/21/2006	:
Attorney Docket No.	:
PRG2002-1D2	:

This is a decision on the "Petition to Correct Name of Assignee on Patent Issued" filed August 7, 2006, to request a change in the name of the assignee after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition and requests correction of the assignee name, and requests that, if the petition is granted, but the patent has issued, a certificate of correction may be submitted.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

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

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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.

Analysis and conclusion

Applicant has failed to include a request for a certificate of correction. Applicant should file a Request for Reconsideration of Petition and include the request for a certificate of correction and fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Conley Rose, P. C.
P. O. Box 3267
Houston, TX 77253-3267

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Bradley L. Bankhead, et al.	:	
Application No. 10/884,579	:	DECISION GRANTING
Filed: July 1, 2004	:	PETITION
Attorney Docket No. 1780-04200	:	

This is a decision on the petition filed October 14, 2004, requesting that the above-identified application be accorded a filing date of July 1, 2004, rather than the presently accorded date of July 2, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED.**

Petitioner alleges that the application was deposited in Express Mail Service on July 1, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV327707382US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of July 1, 2004. The Express Mail label also includes a U. S. Postal Service (USPS) receipt date stamp of July 1, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. In view of the above, petitioner has shown that the package in question was, in fact, deposited with the USPS on July 1, 2004 and the filing date of the application will be accorded such.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of July 1, 2004.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/884,579	07/01/2004	2863	1022	1780-04200	9	34	3

CONFIRMATION NO. 6151

CORRECTED FILING RECEIPT

OC000000015574445

23505
CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

Date Mailed: 03/25/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Bradley L. Bankhead, Houston, TX;
Arcangelo S. Sena, Houston, TX;

Assignment For Published Patent Application

Veritas DGC Inc., Houston, TX

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/884,579

Projected Publication Date: 01/05/2006

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Seismic data calibration using crossplotted AVO attributes

Preliminary Class

702

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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P. O. Box 3267
Houston, TX 77253-3267

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OFFICE OF PETITIONS

In re Application of	:	
Bradley L. Bankhead, et al.	:	
Application No. 10/884,579	:	DECISION ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 1780-04200	:	

CORRECTED DECISION

This is a corrected decision on the petition filed October 14, 2004, requesting that the above-identified application be accorded a filing date of July 1, 2004, rather than the presently accorded date of July 2, 2004.

The petition is **DISMISSED AS MOOT.**

The petition listed an incorrect application number. The petition should have been filed in application number 10/884,879. In view thereof, the application is not entitled to the presently accorded filing date. Therefore, the Office records will be corrected to reflect the original filing date of July 2, 2004.

The Office sincerely apologizes for this error and regrets any inconvenience caused to applicant.

This application file is being forwarded to the Office of Initial Patent Examination Division for correction and further **processing with a filing date of July 2, 2004.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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OCT - 2 2006
TECHNOLOGY CENTER 2800

September 2006

Fellers, Snider, Blankenship, Bailey&Tippens,P.C.
Bank One Tower
100 North Broadway
Suite 1700
Oklahoma City OK 73102-8820

In re Application of:	:	
DAVID L.SPENGLER	:	DECISION ON PETITION TO
Serial No.: 10/884,601	:	MAKE SPECIAL UNDER 37
Filed: 02 July 2004	:	C.F.R. § 1.102(d)
Docket: STL12318	:	

This is a decision on the petition filed on October 20, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that the claims are directed to a single invention and an offer to elect without traverse should a restriction or election of species requirement is made; c) a statement that a pre-examination search was made, including the search areas; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the teaching of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b), (c) and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) n states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the cited references, and states that they do not teach the specific limitations claimed in the independent claims. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For instance, petitioner has not discussed exactly how the Cleveland, Maari, Ono and Emma references lack a disclosure or fair teaching of the limitations of each independent claim. A mere statement alleging that the claims contain a feature not found in the relevant prior art is insufficient. Furthermore, the remaining references in the IDS, which were also stated as previously attempted solutions, lacks a detailed discussion of each. Petitioner is required to provide such detailed discussion for each reference with respect to each independent claim.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant, and a statement complying with MPEP § 708.02(VIII)(b).

Any inquiry regarding this decision should be directed to Jose' G. Dees, Special Program Examiner, at (571) 272-1569.

Jose' G. Dees, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY - COL2LGL
389 DISC DRIVE
COLORADO SPRINGS, CO 80503-9364

In re Application of: Roberson, et al.
Application No. 10/884,602
Filed: July 2, 2004
For: DISTRIBUTED PROCESSING IN A MULTIPLE PROCESSING UNIT ENVIRONMENT

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 December 15, 2004, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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

3/3/05

SDL

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Seagate Technology LLC
Intellectual Property - COL2LGL
389 Disc Drive
Longmont CO 80503-9364

In re Application of	:	
Grant E. CARLSON, et al.	:	
Application No. 10/884,605	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO MAKE SPECIAL
For: **CARRIER DEVICE AND METHOD FOR A MULTIPLE DISC ARRAY**	:	

This is a decision on the petition filed October 20, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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William J. Wood
Gates & Cooper LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, CA 90045

Mail Date: 04/21/2010

Applicant	: Susan McConnell	: DECISION ON REQUEST FOR
Patent Number	: 7628772	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,609	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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GARY L. EASTMAN
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

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APR 05 2007

OFFICE OF PETITIONS

In re Application of :
Arlen Barksdale :
Application No. 10/884,626 : ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. 1056-PA03 :

This is a decision on the petition under 37 CFR 1.137(b), filed by November 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts (Notice) mailed August 30, 2004. The Notice set a period for reply of two (2) months and required the statutory basic filing fee, an oath or declaration under 37 CFR 1.63, the requisite surcharge under 37 CFR 1.16(e) and a replacement abstract commencing on a separate sheet in compliance with 37 CFR 1.72(b) and 37 CFR 1.121. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 31, 2004. This decision precedes the mailing of a Notice of Abandonment. However, on November7, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an abstract, the filing fees, surcharge and a declaration under 37 CFR 1.63; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application has been abandoned for an extended period of time; therefore, 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 application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed November 7, 2006.

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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JASON P. FIORILLO
TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin Parker, et al.	:	
Application No. 10/884,627	:	DECISION ON REQUEST
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. ICE-032	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed December 29, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jason P. Fiorillo and all the attorneys/agents of record associated with Customer No. 022832 has been revoked by the assignee of the patent application on January 31, 2006. 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.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Marc H. Hedrick	: DECISION ON REQUEST FOR
Patent Number	: 7585670	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,638	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAILED
JUN 21 2010
OFFICE OF PETITIONS

In re Application of
Wael Hani Ghanma et al.
Application No. 10/884,641
Filed: July 2, 2004
Attorney Docket No. BITB01-00003

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6) filed May 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application 60/121,897, set forth in the concurrently filed amendment.

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 nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate non-provisional application, Application No. 09/342,856, filed June 29, 1999, was filed within twelve months of the filing date of the prior-filed provisional application, Application no. 60/121,897 filed February 26, 1999, for which priority is claimed.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119 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).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) 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
40I Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christopher Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,719,981
Issue Date: May 18, 2010
Application No. 10/884,641
Filed: July 2, 2004
Attorney Docket No. BITB01-00003

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed May 18, 2010, under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application 60/121,897, which is set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Application no. 10/884,641 which was filed after November 29, 2000, matured into Patent No. 7,719,981 on May 18, 2010. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition is not compliance with the requirements for a grantable petition under 37 CFR § 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional application has not been included in a certificate of correction and (2), the certificate of correction fee has not been submitted. Thus, the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §119(e) to the

above-noted, prior-filed provisional application does not satisfy the conditions of 37 CFR § 1.78(a)(6).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and a certificate of correction and appropriate fee will need to be submitted.

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
40I Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Chris Bottorff
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5901

In re Application of	:	
Sherwood D. Marx	:	
Application No. 10/884,642	:	DECISION GRANTING PETITION
Filed: July 2, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1435-002-03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of January 24, 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 3761.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/884,669	07/02/2004	Srinivas Gadde	200308698-1	6512

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
DONABED, NINOS J

ART UNIT	PAPER NUMBER
2144	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY 10884669
07/09/2004 SDIRETA1 00000018 082025
02 FC:1202 180.00 CR

FORM PET651G (Rev. 08/07)

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APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPT., PATENT COUNSEL
P O BOX 450A, MS/2061
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of	:
Peter G. Borden et al	:
Application No. 10/884,673	: DECISION GRANTING PETITION
Filed: July 2, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 008485USAC04 BX7	:

This is a decision on the petition, filed April 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 13, 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 2877 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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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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JUN 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,468,215	:	
NIELSEN et al.	:	DECISION ON
Issue Date: December 23, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/884,678	:	OF
Filed: July 2, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. A2000-701519	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT" filed February 23, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred four days (404) days to four hundred seventy five (475) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 23, 2008, the above-identified application matured into US Patent No. 7,468,215 with a revised patent term adjustment of 404 days. On February 23, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with the required fee), asserting that in view of the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138 (D. D.C. 2008), the correct number of days of patent term adjustment is 475 days. See 37 CFR 1.705(d). Specifically, patentees aver:

> In reviewing the calculation of PTA under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b), which is directed to the time between issuance and three years from the filing date, the following dates and days are relevant:
>
> (a) The filing date of the application is July 2, 2004;

(b) Three (3) years from the filing date of the application is July 2, 2007;

(c) The patent issued on December 23, 2008;

(d) A Request for Continued Examination (RCE) was filed on September 11, 2007;

(e) The total number of days from the three year period noted in (b) above to the issue date is: 540 days;

(f) The total number of days from the RCE filing noted in (d) above to the issue date is: 469 days;

(g) The difference between (e) and (f) above, which is the total number of days between the three year period and the RCE filing date, is 71 days.

Based on the above, Applicants are entitled to an additional 71 days of patent term adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.703(b) due to delay of the Patent Office.

Petition dated 02/23/09, p. 3.

Initially, the Office notes that the record reveals that the Request for Continued Examination ("RCE") was received in the USPTO on September 10, 2007,[1] as evidenced by the Electronic Acknowledgment Receipt, not September 11, 2007, as indicated by patentees. Consequently, patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) ("Three Year Delay") [2]

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[1] The RCE in the Image File Wrapper contains the Electronic signature of patent practitioner, Nicole A. Palmer, and is dated 2007-09-10.

[2] The period of adjustment under 37 CFR 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under

as 71 days, instead of the correct period of 70 days. Accordingly, the Office will use the correct period of adjustment pursuant to 37 CFR 1.702(b) of 70 days in this decision.

In this instance, the Three Year Delay period of 70 days is calculated based on the application having been filed under 35 U.S.C. 111(a) on July 2, 2004, and a RCE having been filed in this application on September 10, 2007. The filing of a RCE cuts-off the applicant's ability to accumulate any additional

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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 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.

37 CFR 1.703(b).

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 70-day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 469 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). A nonfinal Office action was mailed on December 15, 2006, 14 months and 469 days after the application was filed on July 2, 2004.

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, the period of Office delay reduced by the period of applicant delay. The period of reduction of 65 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 Year Delay and the period of Examination Delay (469 days) to the extent that these periods of delay are not overlapping. However, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14 month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 539 days, which is the sum of the period of Three Year Delay (70 days) and the period of Examination Delay (469 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 474 days (70 + 469 reduced by 0 overlap - 65 days (applicant delay)).

Patentees' arguments have been considered, but are not persuasive. The Office maintains that as of the filing of the first RCE on September 10, 2007, the application was pending three years and 70 days after its filing date. Further, 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 469 days is correct. At issue is whether patentees should accrue 70 days of patent term adjustment for the Office taking in excess of three years to issue the patent,

as well as, 469 days for Office failure to take a certain action within a specified time frame (or examination delay). The Office contends that all 70 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 37 CFR 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[3]

As such, the period for over three year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from the filing of the application on July 2, 2004, to the date of the filing of the RCE on September 10, 2007 (except for periods excluded under 35 U.S.C. 154(b)(1)(b)(i)-(iii). The period of delay of 70 days for the Office taking in excess of three years to issue the patent overlaps with the 469 days accorded pursuant to 37 CFR 1.702(a)(1) during the pendency of the application prior to the filing of the RCE. The period of 469 days is considered the actual number of days that the issuance of the patent was delayed, considering the 70 days over three years to the filing

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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).

of the RCE. As the 469 days had already been accorded, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made. The revised determination of patent term adjustment at the time of the issuance of the patent will remain 404 days.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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United States Patent and Trademark Office
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10/07/04

In re Application of	:	
HARRINGTON et al.	:	
Serial Number: 10/884,692	:	PETITION UNDER
Filed: July 2, 2004	:	M.P.E.P.708.02 V
For: METHOD AND SYSTEM FOR DIRECTING	:	
FLUID FLOW	:	

This is in response to the petition filed August 9, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

John S. Jardine
Jardine Law Offices
116 129th Ave, NE
Bellevue, WA 98005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/21/2010

Applicant	: Burkhard Becker	: DECISION ON REQUEST FOR
Patent Number	: 7664809	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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KING & SPALDING LLP
P.O. BOX 889
BELMONT CA 94002-0889

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OCT 28 2008

In re Application of	:	
Chih-Ping Liu et al	:	
Application No. 10/884,741	:	DECISION ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 55600.8014.US04	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 mailed October 17, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1647 for appropriate action by the Examiner in the normal course of business on the reply received August 5, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Don R. Arnold	: DECISION ON REQUEST FOR
Patent Number	: 7653978	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,743	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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

PHILIP S.JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of
Sonya Merrill et al
Application No. 10/884,744
Filed: July 2, 2004
Attorney Docket No. AR02300USACON3

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 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 RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed June 23, 2008, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received January 28, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JUDY M. MOHR
P.O. BOX 889
BELMONT, CA 94065

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JOSEPH E. GORTYCH, ESQ., P.A. D/B/A OPTICUS IP
3689 ASTER DRIVE
SARASOTA, FL 34233

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JUN 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,746,124	:	
Issue Date: June 8, 2004	:	
Application No. 10/884,759	:	NOTICE
Filed: July 1, 2004	:	
Attorney Docket No.: 053768.0002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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 any future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOSEPH E. GORTYCH
OPTICUS IP LAW, PLLC
7791 ALISTER MACKENZIE DRIVE
SARASOTA, FL 34240

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THE LAW OFFICES OF CALVIN B. WARD
SUITE 305
18 CROW CANYON COURT
SAN RAMON, CA 94583

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OFFICE OF PETITIONS

In re Application of	:	
Womack, Richard Hiram	:	DECISION ON PETITION
Application No. 10/884,762	:	TO WITHDRAW
Filed: July 1, 2004	:	FROM RECORD
Attorney Docket No. 54592	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 5, 2005 and resubmitted on March 9, 2006.

The request is **NOT APPROVED.**

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 another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reason provided for the request does not fall into one of the proper categories listed under 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed February 21, 2006 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

BIRCH STEWART KOLASCCH & BIRCH
ATTN: MR. MICHAEL MUTTER
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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THE LAW OFFICES OF CALVIN B. WARD
18 CROW CANYON COURT, SUITE 305
SAN RAMON, CA 94583

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OFFICE OF PETITIONS

In re Application of	:	
Womack, Richard Hiram	:	DECISION ON PETITION
Application No. 10/884,762	:	TO WITHDRAW
Filed: July 1, 2004	:	FROM RECORD
Attorney Docket No. 54592	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **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 Calvin B. Ward, the sole attorney of record. Calvin B. Ward has been withdrawn as attorney of record. 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 inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the below-listed address until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 21, 2006 that requires a reply from the applicant.

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:

RICHARD HIRAM WOMACK
10709 SANTA MONICA DRIVE, NE
ALBUQUERQUE, NM 87122

BIRCH STEWART KOLASCH & BIRCH
ATTN: MR. MICHAEL MUTTER
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

MICHAEL P. MAZZA, LLC
686 CRESCENT BLVD.
GLEN ELYN, IL 60137

In re Application of
Thomas C. Luciano
Application No. 10/884,763
Filed: July 2, 2004
Attorney Docket No. 10030

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 28, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 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, and the application became abandoned on October 13, 2007. A Notice of Abandonment was mailed April 7, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (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 required by 37 CFR 1.137(c).

The instant petition lacks item (1).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that a timely and proper response to the final Office action, in the form of a Request for Continued Examination, was filed November 13, 2007.

With regard to item (1) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

A review of the papers filed with the petition reveals a copy of the transmittal page for the RCE[10] indicating that the RCE is accompanied by an amendment and Office date-stamped postcard whereby the USPTO acknowledged receiving and RCE and amendment on November 13, 2007. The Office date-stamped postcard is *prima facie* evidence that the RCE transmittal sheet and amendment were received on November 13, 2007. However, a copy of the amendment that accompanied the RCE was not found with the petition papers. The amendment that petitioner established was first filed November 13, 2007, was not found in the record, therefore, petitioner must provide a copy of the amendment in order for the RCE to be considered a complete and proper response to the final Office action[11]. The renewed petition must be accompanied by the amendment that was to accompany the RCE.

Petitioner's request for a refund of the petition fee is noted but cannot be granted. Petitioner will note that a requirement for a successful petition under 37 CFR 1.137(a) is payment of the petition fee. Without the fee, the petition would be summarily dismissed without consideration on the merits. Further, petitioner had the option of filing a petition to withdraw the holding of abandonment under 37 CFR 1.181 which has no fee. See MPEP 711.03(c). Petitioner chose to file a petition under 37 CFR 1.137(a), however, which requires payment of the petition fee. It is not appropriate to refund the petition fee as the petition under 37 CFR 1.137(a) has been considered on merits and petitioner has received a decision. The request for refund of the petition fee is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required

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specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

[10] The RCE contains a certificate of mailing dated November 8, 2007.

[11] It is also noted that petitioner will need an extension of time within the first month in order for the RCE to be considered timely.

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MICHAEL P. MAZZA, LLC
686 CRESCENT BLVD.
GLEN ELYN IL 60137

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JUN 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Thomas C. Luciano :
Application No. 10/884,763 : ON PETITION
Filed: July 2, 2004 :
Attorney Docket No. 10030

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 29, 2008, to revive the above-identified application.

The renewed petition is **GRANTED.**

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 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, and the application became abandoned on October 13, 2007. A Notice of Abandonment was mailed April 7, 2008. A petition under 37 CFR 1.137(a) was first filed on April 28, 2008, and dismissed by a decision mailed May 23, 2008.

The Request for Continued Examination and Amendment filed May 29, 2008, are noted.

Deposit account 50-2734 will be charged $820.00 for the Request fro Continued Examination.

The file is now being forwarded to the Technology Center 3600, GAU 3652 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Director's Office
Group 3700

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

In re application of Donald L. Richter	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/884,780 Filed: July 1, 2004	:	

For: **LAMINAR AIR TURBINE**

This is a decision on the petition filed on September 15, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/22/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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John H. Lee, Assistant Laboratory Counsel
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

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OFFICE OF PETITIONS

In re Application of	:	
Beernink et al.	:	
Application No. 10/884,783	:	DECISION ON PETITION
Filed: 07/01/2004	:	
Attorney Docket No. IL-11157	:	

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.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 6, 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). Petitioner obtained an extension of time for response within the first month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is January 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 a Notice of Appeal; (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) 272-3211.

This application is being referred to Technology Center AU 1639 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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John H. Lee, Assistant Laboratory Counsel
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore CA 94551

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SEP 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Beernink et al.	:	
Application No. 10/884,783	:	DECISION ON PETITION
Filed: 07/01/2004	:	
Attorney Docket No. IL-11157	:	

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.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 6, 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). Petitioner obtained an extension of time for response within the first month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is January 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 a Notice of Appeal; (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) 272-3211.

This application is being referred to Technology Center AU 1639 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PTO/SB/64 (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
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) IL-11157

First named inventor: Peter T. Beernink

Application No.: 10/884,783 Group Art Unit: 1639

Filed: July 1, 2004 Examiner: Steele, Amber D.

Title: High Throughput Protein Production Screening

Attention: Office of Petitions
Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☒ Small entity - fee 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
☒ Notice of Appeal (identify type of reply):
☐ has been filed previously on _____.
☒ is enclosed herewith.

B. The issue fee of $_____
☐ has been filed previously on _____.
☐ is enclosed herewith.

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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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPARTMENT
920 DISC DRIVE, MS/SV02A7
SCOTTS VALLEY, CA 95066-4544

Mail Date: 04/21/2010

Applicant	: B. Ramamurthy Acharya	: DECISION ON REQUEST FOR
Patent Number	: 7592079	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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SEP 10 2008

In re Application of	:	
TRIPATHI, Sunay et al.	:	
Application No. 10/884,791	:	DECISION ON PETITION
Filed: July 01, 2004	:	TO WITHDRAW
Attorney Docket No. **20910/0206155-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 May 19, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **OSHA LIANG L.L.P./SUN**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Marcos Dantus	: DECISION ON REQUEST FOR
Patent Number	: 7583710	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/884,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **874** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego, CA 92130-2092

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of Kayalackakom et al. Application No. 10/884,810 Filed: July 2, 2004 Attorney Docket No. 079202-0309867 For: Hardware Acceleration For Diffie . . .	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 29, 2004.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

On December 3, 2004, petitioner's deposit account was charged $130 for the petition. As of November 1, 2004, the fee for a petition under 37 CFR 1.47 is $200.[1] Therefore, an additional $70 will be charged to petitioner's deposit account.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination will be informed of the instant decision.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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United States Patent and Trademark Office
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MAR 2 8 2006

OFFICE OF PETITIONS

BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC
P.O. BOX 381146
BIRMINGHAM, AL 35238

In re Application of	:	
Charles Lee Brinston, Sr.	:	
Application No. 10/884,812	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. brinston 1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 2006, 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 July 1, 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 July 6, 2006, is attached.

This application is being returned to Technology Center 3700 for further examination *in due course*.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment:
Communication Regarding Rescission Of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/884,812	07/02/2004	Charles Lee Brinston SR.	brinston 1

CONFIRMATION NO. 4486

40198
BUSH INTELLECTUAL PROPERTY LAW GROUP, LLC
P.O. BOX 381146
BIRMINGHAM, AL 35238

Date Mailed: 03/28/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/06/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SEP 12 2005

In re Application of	:	
Wilfred E. Greenlee	:	
Serial No. 10/884,822	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO MAKE SPECIAL
For: WIRE CUTTER FOR ARTIFICIAL	:	
FLOWER STEMS	:	

Applicant's petition, filed July 2, 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.

Frederick R. Schmidt, Director
Technology Center 3700

Wilfred E. Greenlee
4423 Eagles Cove Court
Louisville, KY 40241-4802

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P.O. Box 1450
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PROFESSOR DEMCHICK'S PATENT SERVICES
THE JACOB TOMLINSON HOUSE
407 WEST BROAD STREET
WILSON, NC 27893

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of	:	
GREENLEE	:	
Application No. 10/884,822	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. 05-111	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul H. Demchick on behalf of all attorneys of record. To the extent that Paul Demchick is the only practitioner associated with the Customer Number 42266, he has 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 Wilfred E. Greenlee at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Wilfred E. Greenlee
4423 Eagles Cove Court
Lousiville, KY 40241-4802

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Woo-Tae Kim, et al.	:	
Application No. 10/884,829	:	DECISION GRANTING PETITION
Filed: July 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 52582/P849	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 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 March 3, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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FEB 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Wendt	:	
Application No. 10/884,832	:	DECISION REFUSING
Filed: July 2, 2004	:	STATUS UNDER
For: Methods to Decode Temporal	:	37 CFR 1.47(a)
Watermarks in Compressed Video	:	

This is in response to the petition under 37 CFR 1.47(b), filed February 4, 2005. Applicant obtained a three-month extension of time to reply. Accordingly, the petition is timely filed.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On July 2, 2004, applicant filed the above-identified application without an executed oath or declaration. On September 24, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath or declaration and a surcharge.

On February 4, 2005, applicant filed the present petition with a request for a three-month extension of time to reply. The petition states that the application was delivered to Mr. Wendt, the nonsigning inventor, at his last known address. Additionally, Raymond B. Churchill, Jr. asserts that he attempted to contact the inventor on six occasions by telephone between May 19, 2004, and June 19, 2004, but to no avail. The petition further states that the nonsigning inventor assigned his interest in the application to Sony Electronics Inc. Applicant included an employment agreement entitled "Employee Patent and

Confidential Information Agreement" with the present petition. The petition asserts that Sony Electronics Inc. will be irreparably damaged if the petition is not granted and sets forth the last known address of the inventor. Lastly, applicant submitted the requisite fees.

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 item (2) 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:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). 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).

Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. Applicant must submit a <u>new</u> declaration which identifies the inventor's country of citizenship as required by 37 CFR 1.63, and is signed by Harold T. Fujii, or another person authorized by the corporation, on behalf of Mr. Wendt.

Accordingly, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows and **directed 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: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision 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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WESTFIELD NJ 07090

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Wendt	:	
Application No. 10/884,832	:	DECISION ACCORDING
Filed: July 2, 2004	:	STATUS UNDER
For: Methods to Decode Temporal	:	37 CFR 1.47(b)
Watermarks in Compressed Video	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 21, 2005.

On July 2, 2004, applicant filed the above-identified application without an executed oath or declaration. On September 24, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath or declaration and a surcharge.

On February 4, 2005, applicant filed the original petition with a request for a three-month extension of time to reply. The petition stated that the application was delivered to Mr. Wendt, the nonsigning inventor, at his last known address. Additionally, Raymond B. Churchill, Jr. asserted that he attempted to contact the inventor on six occasions by telephone between May 19, 2004, and June 19, 2004, but to no avail. The petition further stated that the nonsigning inventor assigned his interest in the application to Sony Electronics Inc. Applicant included an employment agreement entitled "Employee Patent and Confidential Information Agreement" with the petition. Applicant asserted that Sony Electronics Inc. would be irreparably damaged if the petition was not granted and sets forth the last known address of the inventor. Lastly, applicant submitted the requisite fees.

The petition was dismissed by the decision of February 25, 2005, because applicant did not submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64.

On March 21, 2005, applicant filed the present renewed petition and a new declaration which identifies the inventor's name, mailing address, and country of citizenship as required by 37 CFR 1.63, and is signed by Harold T. Fujii, on behalf of Mr. Wendt.

Accordingly, 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.

The matter will be referred to Technology Center Art Unit 2621.

Telephone inquiries 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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United States Patent and Trademark Office
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JUL 18 2005

Director's Office
Group 3700

Kudirka & Jobse, LLP
One State Street
Suite 800
Boston, MA 02109

In re application of
Valery Kagan

Serial Number: 10/884,851
Filed: July 2, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **HEATING SYSTEMS AND METHODS**

This is a decision on the petition filed on September 27, 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
(571) 272-3750

rt: 7/14/05

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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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SEP 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Dean M. WILSON et al.	:	
Application No. 10/884,865	:	DECISION ON PETITION
Filed: July 02, 2004	:	
Attorney Docket No. **VPI/03-100 US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 23, 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) (3). The unintentional statement pertains only to the delay from February 22, 2008 and not from the due date for the reply as required in item (3). Since no extensions of time were obtained, the reply was due on or before November 22, 2007.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

VPI/03-100 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner	:	Venkataraman Balasubramanian
Group	:	1624
Applicants	:	Dean M. Wilson et al.
Serial No.	:	10/884,865
Confirmation No.	:	5812
Filed	:	July 2, 2004
For	:	PYRIMIDINES USEFUL AS MODULATORS OF VOLTAGE-GATED ION CHANNELS

Cambridge, Massachusetts
June 26, 2008

Mail Stop Amendment
Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Sir:

Pursuant to 37 C.F.R. § 1.137(b), applicants hereby petition for revival of the above-identified patent application.

This application unintentionally became abandoned as of February 22, 2008, because of applicants' lack of response to the August 22, 2007 Office Action.

As required by 37 C.F.R. § 1.137(b), this petition is therefore accompanied by:

(1) An Amendment and Reply to the Office Action;

(2) An Information Disclosure Statement

(3) Authorization to charge Deposit Account No. 50-0725

As further required by 37 C.F.R. § 1.137(b), applicants hereby state that the entire delay in filing the required Office Action response, from the February 22, 2008 due date until the filing of this petition was unintentional.

Applicants respectfully request that this petition be granted and the above-identified patent application be revived. Early and favorable consideration of this petition is respectfully requested.

The Director is hereby authorized to charge any additional fee due, or credit any overpayment, in connection with this petition, to Deposit Account No. 50-0725.

Respectfully submitted,

/Michael C. Badia/

Michael C. Badia (Reg. No. 51,424)
Attorney for Applicants
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242
Tel.: (617) 444-6467
Fax.: (617)444-6483

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10884865 Total Records Found: 8

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
06/26/2008	00016249	4	1453	$1,540.00	06/26/2008	DA 500725
03/09/2007	00000045	1	1251	$120.00	03/08/2007	DA 500725
10/04/2004	00000002	1	1001	$770.00	09/30/2004	DA 500725
10/04/2004	00000003	1	1051	$130.00	09/30/2004	DA 500725
10/04/2004	00000004	1	1201	$86.00	09/30/2004	DA 500725
10/04/2004	00000006	1	1203	$290.00	09/30/2004	DA 500725
10/04/2004	00000005	1	1202	$2,628.00	09/30/2004	DA 500725
09/08/2004	00000826		8021	$40.00	08/27/2004	DA 500725

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130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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JAN 1 3 2009

OFFICE OF PETITIONS

In re Application of :
Dean M. WILSON et al. :
Application No. 10/884,865 : DECISION ON PETITION
Filed: July 02, 2004 :
Attorney Docket No. **VPI/03-100 US** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office Action of August 22, 2007 is accepted as having been unintentionally delayed.

Since the petition fee was paid on June 26, 2008 this fee of $1620 is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1624 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Foley Hoag, LLP
Patent Group
155 Seaport Boulevard
Boston, MA 02110

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
David A. Sinclair	:	
Application No. 10/884,879	:	DECISION GRANTING
Filed: July 1, 2004	:	PETITION
Attorney Docket No. HMV-089.01	:	

This is a decision on the petition filed April 8, 2005, requesting that the above-identified application be accorded a filing date of July 1, 2004, rather than the presently accorded date of July 2, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED.**

Petitioner alleges that the application was deposited in Express Mail Service on July 1, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV327707382US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of July 1, 2004. The Express Mail label also includes a U. S. Postal Service (USPS) receipt date stamp of July 1, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. In view of the above, petitioner has shown that the package in question was, in fact, deposited with the USPS on July 1, 2004 and the filing date of the application will be accorded such.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of July 1, 2004.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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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
10/884,879	07/01/2004	1651	1135	HMV-089.01	42	39	5

CONFIRMATION NO. 5566

CORRECTED FILING RECEIPT

OC000000016745049

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 08/10/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David A. Sinclair, West Roxbury, MA;
Konrad T. Howitz, Allentown, PA;
Robert E. Zipkin, Wynnewood, PA;

Assignment For Published Patent Application

President and Fellows of Harvard College, Cambridge, MA
BIOMOL International L.P., Plymouth Meeting, PA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/532,158 12/23/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/884,879

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compositions for manipulating the lifespan and stress response of cells and organisms

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 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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Patent Group, World Trade Center West
155 Seaport Boulevard
Boston, MA 02210

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JUN 23 2008

In re Application of	:	
David A. Sinclair et al.	:	
Application No. 10/884,879	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. HMV-089.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 29, 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 Gregory J. Sieczkiewicz, on behalf of all attorneys/agents associated with customer number 25181. All attorneys/agents associated with customer number 25181 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If you would like to receive future correspondence then the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David A. Sinclair
8 Preston Road
West Roxbury, MA 02132

cc: John R. Van Amsterdam
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/884,879	07/01/2004	David A. Sinclair	HMV-089.01

CONFIRMATION NO. 5566

POWER OF ATTORNEY NOTICE

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

OC000000030614027

Date Mailed: 06/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JUN 2 3 2008

In re Application of	:	
David A. Sinclair et al.	:	
Application No. 10/884,879	:	DECISION ON PETITION
Filed: July 1, 2004	:	TO WITHDRAW
Attorney Docket No. HMV-089.01	:	FROM RECORD
	:	

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The request was signed by Gregory J. Sieczkiewicz, on behalf of all attorneys/agents associated with customer number 25181. All attorneys/agents associated with customer number 25181 have been withdrawn.

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Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David A. Sinclair
8 Preston Road
West Roxbury, MA 02132

cc: John R. Van Amsterdam
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Organization _____ Bldg./Room _____

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RETURN TO SENDER

22313@1450
02132 72815 C065