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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	
Application No. 10/884881	:	DECISION ON PETITION
Filing or 371(c) Date: 07/06/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PEC011US	:	

This is a decision on the "Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120," filed November 5, 2007.

The petition is **GRANTED**.

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

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

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

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

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. 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 2625 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/884,881	07/06/2004	2625	770	PEC011US	4	2

CONFIRMATION NO. 7424

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

OC000000027977426

Date Mailed: 01/29/2008

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)

Kia Silverbrook, Ballmain, AUSTRALIA;
Paul Lapstun, Balmain, AUSTRALIA;
Simon Robert Walmsley, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Silverbrook Research Pty Ltd, Ballmain, AUSTRALIA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/189,459 07/08/2002 PAT 6,921,144
which is a CON of 09/575,108 05/23/2000 PAT 6,795,215

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 **US 10/884,881**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Dithering unit for multi-segment printhead

Preliminary Class

358

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of Kia Silverbrook Application No. 10/884,887 Filed: July 6, 2004 Attorney Docket No. ZG026US	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on July 17, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed January 10, 2006. A Notice of Abandonment was mailed on June 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/884,889	:	DECISION ON PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. JUM006US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition. This petition was recently forwarded to the undersigned for consideration.

The petition is **DISMISSED**.

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

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

require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

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

This application was filed prior to September 21, 2004. Accordingly, the explicit incorporation by reference statement could have been included in the transmittal letter. However, a review of the application transmittal reveals only that application No. 10/407,207 was incorporated by reference therein. Likewise, on filing the specification only included an incorporation by reference statement to the prior-filed provisional Australian applications. As the amendment submitted on petition newly attempts to incorporate by reference application No. 09/113,122, it is improper.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either 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 is required. Please note any ADS filed after the application filing date must be signed and must be entitled "Supplemental Application Data Sheet" and otherwise, comply with 37 CFR 1.76.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/884,889	:	DECISION ON PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. JUM006US	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.78(a)(3), filed November 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the application data sheet filed with the petition.

The petition is **DISMISSED**.

By decision mailed October 30, 2007, a prior petition under 37 CFR 1.78(a)(3) filed March 16, 2007 was dismissed. The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification was determined to be unacceptable as it improperly incorporated by reference the prior-filed applications.

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.

Applicants previously submitted the surcharge and the required statement of unintentional delay. On instant renewed petition, applicants submitted a supplemental application data sheet (ADS). However, the ADS is not signed. As applicants were advised in the decision of October 30, 2007, the supplemental ADS must be titled "supplemental" and must be signed. Furthermore, an amendment was submitted as part of the petition. Unfortunately, any amendment must be in a separate paper. See 37 CFR 1.4(c). Thus, the petition still does not satisfy requirement (1) above.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either 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 is required.

It is noted that a final Office action has been issued in this application. As such, a request for continued examination (RCE and RCE fee) may be required for entry of any further amendment (or supplemental ADS), and thus, for granting of any renewed petition under 37 CFR 1.78(a)(3).

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

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/884,889	:	DECISION ON PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. JUM006US	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.78(a)(3), filed June 30, 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 application data sheet filed with the petition.

The petition is **DISMISSED**.

By decision mailed October 30, 2007, a prior petition under 37 CFR 1.78(a)(3) filed March 16, 2007 was dismissed. The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification was determined to be unacceptable as it improperly incorporated by reference the prior-filed applications.

By decision mailed June 24, 2008, a first renewed petition under 37 CFR 1.78(a)(3) filed November 12, 2007 was dismissed. The petition was dismissed because applicants did not submit the required reference by way of either an acceptable supplemental application data sheet or an acceptable amendment. Although applicants were advised in the decision mailed October 30, 2007 that any ADS submitted after the application filing date must be signed and must be entitled "supplemental," applicants submitted an unexecuted ADS which was not entitled "supplemental." Moreover, the amendment as submitted was not acceptable as it was combined with the petition. Applicants were advised that the amendment must be set forth in a separate paper, as required by 37 C.F.R. 1.4(c).

On instant renewed petition, applicants submitted the required reference by way of an amendment and an executed supplemental application data sheet.

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.

Applicants previously submitted the surcharge and the required statement of unintentional delay.

The instant renewed petition is not grantable. The amendment submitted on renewed petition was correctly set forth in a separate paper. However, the amendment is again unacceptable. Applicants as they did with the amendment filed March 16, 2007 include the same improper incorporation by reference. As stated in the decision mailed October 30, 2007, the amendment is unacceptable as it newly attempts to incorporate by reference application No. 09/113,122. Applicants do not set forth any basis as to why the Office should now consider this amendment proper. This amendment is improper and will not be entered.

The supplemental application data sheet (ADS) submitted on renewed petition is properly signed and titled "supplemental."

Unfortunately, the supplemental ADS cannot be entered. As previously noted, a final Office action has been issued in this application. Accordingly, a request for continued examination

(RCE and RCE fee) is required for entry of the supplemental ADS, and thus, for granting of any renewed petition under 37 CFR 1.78(a)(3).

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

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Silverbrook Research Pty Ltd.
393 Darling Street
Balman, NSW 2041
AUSTRALIA

In re Application of:
Kia Silverbrook
Application No.: 10/884,890
Filed: July 06, 2004
Atty's Docket No.: ZG025US

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed August 14, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed January 10, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on April 10, 2006.

On August 10, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of
Mizuno, et al.
Application No. 10/884,915
Filed: July 7, 2004
Attorney Docket No. Q82381
For: FLAT DISPLAY APPARATUS

ON PETITION

This is a decision on the petition filed October 25, 2004, requesting that the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 24, 2004, be withdrawn insofar as it alleges that Figure 7C was omitted on filing. The petition will be treated under 37 CFR 1.53(e).

The application was filed on July 7, 2004. However, on August 24, 2004, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of July 7, 2004, and advising applicants that Figure 7C described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition does not allege and is not accompanied by any evidence that any sheet of drawing containing the labels "Fig. 7C" was present in the Office on July 7, 2004. However, petitioners explain that Figure 7C was not missing on July 7, 2004. Petitioners claim that the application, filed July 7, 2004, included a sheet of drawings containing three figures, but only two were labeled -- Fig. 7A and Fig. 7B. Applicants state that Fig. 7C was mislabeled as part of Fig. 7B.

It is obvious from the petition that no drawing was actually missing on July 7, 2004. Rather, the drawing of Fig. 7C was simply mislabeled as a result of petitioners' filing error. However, the Notice mailed July 7, 2004, was correct in stating that Figure 7C described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

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

A preliminary amendment adding the label "Fig. 7C" to the mislabeled drawing figure was filed prior to first action on the merits on October 20, 2004.

The application is being forwarded to Technology Center Group Art Unit 2644 for examination in due course and consideration of the October 20, 2004 amendment.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Henri Jin	:	DECISION ON PETITION
Application No. 10/884,939	:	TO WITHDRAW
Filed: July 7, 2004	:	FROM RECORD
Attorney Docket No. 255306US6	:	

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 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Philippe J.C. Signore, on behalf of all practitioners of record who are associated with Customer Number 22850.

All attorneys/agents associated with the Customer Number 22850 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: HENRI JIN
c/o ASIA ATLANTIC TRADING DEVELOPMENT
115 BOULEVARD DE LA MILLIERE
QUARTIER DE SAINT MENET
MARSEILLE FRANCE 13011

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/884,939	07/07/2004	Henri Jin	

CONFIRMATION NO. 7896

POWER OF ATTORNEY NOTICE

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000038427234

Date Mailed: 10/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2009.

- 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.

/atkelley/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/03/07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/884943** Patent No.: **7061844**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

ANDREA WELLINGTON
SUPERVISORY PATENT EXAMINER

SPE

2627
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

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

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APR 10 2007

OFFICE OF PETITIONS

Patent No. 7,125,109	:	LETTER REGARDING
Issue Date: October 24, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/884,951	:	AND
Filed: July 7, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 00684.003657.	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed December 8, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees disclose that the data presently available from the PAIR system appears to indicate an incorrect number of days determined for the USPTO Delay and/or for the Applicants' Delay.

The request for review of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred twenty-one (221) days.

On October 24, 2006, this application matured into U.S. Patent No. 7,125,109, with a revised patent term adjustment of 262 days. Patentees do not disclose a basis for their assertion that the patent term adjustment calculation appears to be incorrect.

Nonetheless, a review of the application history reveals a further basis for entry of a period of reduction for applicant delay. After the mailing of the notice of allowance, on

September 5, 2006, applicants filed an information disclosure statement (IDS) and replacement drawings. Pursuant to § 1.704(c)(10), a period of reduction of 9 days was entered for applicant delay in filing the IDS after the mailing of the Notice of Allowance (for the period beginning on September 5, 2006 and ending on the mailing date of the Office response, September 13, 2006). However, a period of reduction of 41 days pursuant to § 1.704(c)(10) should have been entered for applicant delay in filing the drawings after the mailing of the Notice of Allowance (for period beginning on September 14, 2006 and ending on the date of issuance of the patent, October 24, 2006. The period from September 5, 2006 to September 13, 2006 overlaps with the period of reduction associated with the filing of the IDS and thus, is not counted in this second reduction pursuant to § 1.704(c)(10)).

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred twenty-one (221) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred twenty-one (221) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,125,109 B2

DATED : October 24, 2006

INVENTOR(S) : Watanabe et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (262) days

Delete the phrase "by 262" and insert – by 221 days--

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Wolff & King, PLLC
2111 Eisenhower Avenue
Suite 402
Alexandria, VA 22314

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AUG 1 1 2008

In re Application of	:	
Adrian Lo, et al.	:	
Application No. 10/884,953	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. TDK-PAUS0002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 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 Eric G. King. Eric G. King has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

(Terri Williams)
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wolff Law Office, PLLC**
P.O. Box 9855
Chapel Hill, NC 27515-9855

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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
N. SHIMOZONO, et al.
Application No. 10/884,976
Filed: July 7, 2004
For: STORAGE SYSTEM, COMPUTER SYSTEM, AND MEHTOD OF CONFIGURING STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on 23 September 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of 23 September 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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VOLENTINE & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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JUL 3 1 2008

In re Application of	:	
Seung-Woo Lee, et. al.	:	
Application No. 10/884,984	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. SEC.974D	:	

This is a decision on the petition under 37 CFR 1.137(b), on June 19, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction/Election Requirement mailed September 20, 2006. A Notice of Abandonment was mailed on April 3, 2007.

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

This application file is being referred to Technology Center Art Unit 1792, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MAY - 3 2007

In re Patent Application of:
Yasuhiro IWASHITA
Application No.: 10/885,011
Attorney Docket No.: 1248-0729PUS1

DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed February 2, 2007. The petition has been treated as a petition to withdraw the holding of finality of the rejection in the above-identified application under 37 C.F.R. § 1.181

The petition is **DENIED.**

A review of the record reveals that a final office action was issued on November 20, 2006 in response to amendments filed October 27, 2006. The record further reveals that in the aforementioned amendments, applicant cancelled claims 11 and 12, and added the limitations thereof to claim 1. Similar changes were made to claim 14. Of this there is no dispute as evidenced by applicant's petition (page 2, top).

Applicant argues that the limitations of claims 11 and 12 were thus previously considered by the examiner. This is also not in dispute, but it is only half correct. That is, it is correct that the limitations were considered, but they were considered only separately, as each claim 11 and 12 depended from claim 1 in the original claims first considered by the examiner in the first office action mailed July 28, 2006. But, the new combination of elements from claims 11 and 12 together as they now exist in new claim 1 of the aforementioned amendments were never considered before the final office action. Consequently, a new issue was created when applicant amended to create the new combination of claim 1 as described. Moreover, other new issues were created for each claim that now depends from new claim 1, since those limitations were also not considered together with the limitations created from the new combination claim 1.

Thus under M.P.E.P § 706.07(a), which governs finality as noted by applicant in his petition, since applicant's amendments necessitated the new grounds of rejection, finality was proper. To wit: the relevant portion of M.P.E.P § 706.07(a) states: "[under] present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's of the claims..."

Consequently, while a new ground of rejection based on the newly cited reference to Vinciarelli was applied as argued by applicant, because the new ground was in response to, and necessitated by, the aforementioned amendments, it was correctly newly applied as M.P.E.P § 706.07(a) makes clear. It is also noted that the amendments could not have been expected to have been made, where a myriad of possible combinations of varying coverage and scope were possible since claims 2-3 and 9-13 all separately depended from claim 1, see M.P.E.P § 706.07(a) (citing as an example of an amendment expected to be made one such as that in response to a rejection under 35 USC 112 for lack of completeness).

For the above stated reasons, the petition is denied. The statutory period continues to run as of the date the final rejection was mailed, November 20, 2006.

Inquiries regarding this decision should be directed to Karl Easthom at (571) 272-1989.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

Mail Date: 04/21/2010

Applicant	: Tstsuo Ohta	: DECISION ON REQUEST FOR
Patent Number	: 7602679	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Tstsuo Ohta
Patent Number : 7602679
Issue Date : 10/13/2009
Application No : 10/885,038
Filed : 07/07/2004

: 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 **1444** 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Tsuyoshi Mitsuda	: DECISION ON REQUEST FOR
Patent Number	: 7626792	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/885,045	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 21 2005

In re Application of	:	
John R. Nottingham et al.	:	
Serial No. 10/885,047	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO MAKE SPECIAL
For: ELECTRIC KNIFE ADAPTED FOR	:	
SAFELY CARVING PUMPKINS AND	:	
OTHER FRUITS AND VEGETABLES	:	

Applicant's petition, filed February 7, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Calfee, Halter & Griswold, LLP
800 Superior Avenue, Suite 1400
Cleveland, OH 44114

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Hermann, et al.	:	
Application No. 10/885,055	:	ON APPLICATION FOR
Filed: July 6, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 00-0196US2	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b), filed November 2, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at a minimum one thousand four hundred ninety (1,490) days[1], not six hundred twenty (620) 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 February 9, 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).

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.

---

[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 Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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In re Application of
Richard C. Fuisz

Application No. 10885067

Filed: July 7,2004

Attorney Docket No. 56915-046

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 18-MAY-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

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

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1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of: ROUX, ISABELLE Serial No. 10/885,068 Filed: August 11, 2006 Docket: 003-241 Title: INNER CASING OF A ROTATING THERMAL MACHINE	6/10/09 DECISION ON PETITION UNDER 37 CFR § 1.144 and § 1.181

This is a decision on the petition filed April 1, 2009 under 37 CFR § 1.181 requesting withdrawal of the restriction requirement restricting claims 13-21 from the Office Action dated December 1, 2008.

The petition is granted.

A review of the record shows that the examiner provided no explanation as to why claims 13-21 added are directed to an invention which is independent or distinct from the amended claims 1-4 and 6-12 as amended and added on December 29, 2006. Therefore, the restriction requirement promulgated on November 21, 2007 does not comply with MPEP § 802.01 and § 806.06 In particular, the examiner failed to explain why the alleged inventions as disclosed are capable of use together and they have different designs, modes of operation, and effects.

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement mailed on November 21, 2007 is hereby withdrawn. Claims 13-21 will be rejoined and examined with the previously elected claims. Since the restriction requirement is withdrawn, the amendment filed on April 1, 2009 will be treated and entered. The examiner has been directed to issue an Office action to rejoin and treat claims 13-21 on the merits when considering the latest amendment filed on April 1, 2009.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit for the examiner's preparation of an Office action in response to the amendment filed on April 1, 2009. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for

Karen M. Young, Director
Technology Center 3700

Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

MAR 2 5 2008

In re Application of :
Yu-Liang Liu et al : **DECISION ON PETITION**
Application No. 10/885,092 :
Filed: 07/07/2004 :
Attorney Docket No. LIUY3014/EM :

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR 1.81 (a), received in the United States Patent and Trademark Office (USPTO) May 9, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed November 17, 2006 which set forth a three (3) month statutory period for reply. The Notice of Abandonment was mailed on May 3, 2007.

Petitioner states that the issue fee transmittal and payment were timely filed on December 19, 2006. Petitioner submitted a copy of the original submission, a copy of a date stamped post card receipt identifying the present application and a copy of a cancelled check in the amount of $1700.00.

US Patent and Trademark records support the receipt of the $1,700.00 check. The check was not applied the application for payment of the issue fee and publication fee as requested on the issue fee transmittal, but was instead refunded back to applicant's attorney on December 29, 2006. The refund was not requested by applicant. **Therefore, the issue fee/publication fee payment of $1700.00 must be resent to the USPTO.** Applicant has one month from the mail date of this letter to submit the payment. Failure to respond to this request within the response period will result in abandonment of the application

In view of the foregoing, the holding of abandonment for failure to timely submit the issue fee is hereby withdrawn and the application is restored to pending status.

The application will be forwarded to the Publications Branch for processing.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of

Yoji Fujita, et al.
Application No. 10/885,100
Filed: July 7, 2004
Attorney Docket No. 360842011500

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 24, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because the petitioner was not appointed by customer number. In order to withdraw by customer number all practitioners must be appointed by customer number.

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

There is an outstanding Office action mailed June 19, 2007 that requires a reply by the applicant.

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

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE' PHD
DARBY & DARBY, PC
1500 K STREET
SUITE 250
WASHINGTON, DC 20005-1714

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OFFICE OF PETITIONS

CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE. 1005
SEATTLE WA 98101

In re Application of	:	
Quan Ni et al	:	
Application No. 10/885,145	:	DECISION GRANTING PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 020.0320.US.UTL	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 13, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FEB 17 2005

MALLOY & MALLOY, P.A.
2800 S.W. Third Avenue
Historic Coral Way
Miami FL 33129

In re Application of Humberto Cancio Serial No.: 10/885,158 Filed: July 6, 2004 For: Therapeutically Beneficial Movable Magnetic Fields	:	DECISION ON PETITION

This is in response to applicants' petition filed July, 6, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Esther M. Kepplinger by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Esther M Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 09202007

DATE : 3/2/04

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction on Patent No.: 6971983

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.

Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

SPE

3735
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Offi

PTOL-306 (REV. 7/03)

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

In re Application of
Lim
Application No. 10/885,179
Filed: July 6, 2004
Docket No.: 061712-5014

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 21, 2005 for failure to timely reply to the non-final Office action mailed April 20, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed November 4, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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JJGJR.: 05-05

Paper No: __

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OFFICE OF PETITIONS

PETER J. PANOPOULOS
9220 S. 87TH COURT
HICKORY HILLS IL 60457

In re Application of		
Panopoulos	:	
Application No. 10/885,187	:	DECISION ON PETITION
Filing Date: 6 July, 2004		
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 7 September and reasserted on 25 October, 2004, and considered herein under 37 C.F.R. §1.53.

For the reasons set forth below, the instant petition is **DISMISSED**.

BACKGROUND

The instant application was deposited on 6 July, 2004, and recited therein a claim for priority to provisional Application No. 60/485,548 (the '548 provisional application). However, in doing so, Petitioner stated the filing date of the '548 provisional application as "July 7, 2003." (Emphasis supplied.)

The actual filing date of the '548 provisional was 8 July, 2003.

The Office mailed a Filing Receipt for the instant application on 31 August, 2004, and noted thereon that the "[d]ata provided by applicant is not consistent with PTO records."

Petitioner responded with a FAX on 7 September, 2004, seeking a "Correction to Filing Receipt

#7847 On Application Number 10/885,187[,]" and noted therein that in the instant nonprovisional, Petitioner (Applicant) had misstated the filing date of the provisional.

Petitioner concluded this FAX with the statement and request: " This was my error. Please correct this and ammend (sic) the record."

The Office responded to Petitioner's request for the correction to amendment of the record on 1 October, 2004, stating that "[t]he filing date of a parent [the provisional] application cannot be changed by this request. A petition to correct the filing date in the parent application is required."

Petitioner filed the instant petition. (Notably, he did not file the petition in the provisional–but, as will be seen–that is unimportant.)

The reality is that Petitioner does not wish to change the filing date of either the '548 provisional or the instant application. Therefore, Petitioner does not wish or need to file a petition in either application.

Rather, Petitioner simply misstated the date of the '548 provisional in his "Cross Reference to Related Applications" set forth at page 2 of the instant application.

Further, because the input of a prior–in this case, provisional–application number into Office systems at the data entry for a successor case automatically generates the correct filing date of the prior application in the Continuity of the successor, the only effect of Petitioner/Applicant's misstatement of the filing date of the '548 provisional was to trigger a notation from the Office in the filing receipt of the nonprovisional that some of the data regarding the provisional–i.e., the filing date–was inconsistent with Office records.

Therefore, the instant petition was unnecessary.

CONCLUSION

Therefore, the instant petition is **dismissed as moot**, and the petition fee is refunded via Treasury check

This file (Image File Wrapper (IFW)) is released to OIPE for further processing as necessary before being forwarded 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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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
800 WEST SUNRISE BLVD
FT LAUDERDALE, FL 33322

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael P. Dawson et al. :
Application No. 10/885,193 :
Filed: July 6, 2004 :
Attorney Docket No.: CEI2456JME Dawson :

This is a decision on the petition filed May 3, 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 October 4, 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 January 5, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2163 for appropriate action on the amendment filed May 3, 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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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Michael P. Dawson et al. :
Application No. 10/885,193 :
Filed: July 6, 2004 :
Attorney Docket No.: CEI2456JME Dawson :

This is a decision on the petition filed May 3, 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 October 4, 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 January 5, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2163 for appropriate action on the amendment filed May 3, 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

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

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

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

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

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

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

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In re Application of	:	
Douglas Kozlay	:	
Application No. 10/885,194	:	DECISION ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. AMK-4107-14	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 24, 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 March 27, 2006.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2 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 March 25, 2008. 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 Douglas Kozlay was responsible for the application at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply and with whom else this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from all responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons 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, over 2 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 persons 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 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.

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) 272-1642.

April M. Wise
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	: Young J. Chung	: DECISION ON REQUEST FOR
Patent Number	: 7579049	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,197	: 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 **1380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JAMES R. FRANKS/NOVA CHEMCIALS INC
WESTPOINTE CENTER
1550 CORAOPOLIS HEIGHTS ROAD
MOON TOWNSHIP, PA 15108

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Dale **POLK Jr., et al.** :
Application No. 10/885,218 :
Filed: July 6, 2004 :
Attorney Docket No. LRM-206 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 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, March 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 24, 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 $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being forwarded to Technology Center Art Unit 1772 for action on the merits commensurate with this decision.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Ruediger Mueller, et. al.	:	
Application No. 10/885,286	:	DECISION ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 13914-018001/2003P00633	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The 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 January 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with $540 fee; (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 3625 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Brian W. Brown
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Ruediger Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7640191	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,286	: 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 **846** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Application of	:	
Martin A. White	:	
Application No. 10/885,290	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. 60000222-0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2008 and February 14, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sonnenschein Nath & Rosenthal, LLP has been revoked by the applicant of the patent application on August 29, 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

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SONNENSCHEIN NATH & ROSENTHAL, LLP
PO BOX 06180
WACJER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606

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In re Application of	:	
Martin A. White	:	
Application No. 10/885,290	:	DECISION ON PETITION
Filed: July 2, 2004	:	TO WITHDRAW
Attorney Docket No. 60000222-0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 28, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Marcellus A. Chase of Sonnenschein, Nath & Rosenthal, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MARTIN WHITE
5003 BANCROFT AVENUE
SAINT LOUIS, MO 63109

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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	: 7595043	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,293	: 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 **1218** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Seok-Gyun Woo, et al.	:	
Application No. 10/885,296	:	DECISION GRANTING PETITION
Filed: July 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 52581/P849	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/885,298	07/02/2004	2622	770	229112	6	17	2

CONFIRMATION NO. 4412

CORRECTED FILING RECEIPT

OC000000016046248

38887
LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

Date Mailed: 05/18/2005

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)

Baogang Yao, Kirkland, WA;
Raju Gulabani, Redmond, WA;
Brandon L. Watson, Bellevue, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number **38887**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/681,139 01/22/2001 PAT 6,813,670
which claims benefit of 60/235,293 09/26/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/885,298

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Automatic server-side plug-and-play without user intervention

Preliminary Class

358

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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WOODS, FULLER, SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Larry R. Franke :
Application No. 10/885,299 : DECISION ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. 24-0291 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the publication fee on or before August 4, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 4, 2006. Accordingly, the date of abandonment of this application is August 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Gerald E. McGlynn, III
Bliss McGlynn, P.C.
2075 West Big Beaver Road, Suite 600
Troy, Michigan 48084-3443

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MAR 24 2010

OFFICE OF PETITIONS

In re Application of :
Metry :
Application No. 10/885,326 : DECISION ON PETITION
Filed: July 6, 2004 :
For: Card Record System :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **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.

This above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts mailed August 30, 2004. The Notice to File Missing Parts set a two (2) 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 October 31, 2005. A Notice of Abandonment was mailed on May 2, 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 (3).[1]

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).

<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

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[1] It is noted the Office is in receipt of $27.00 as was required by the Notice to File Missing Parts mailed August 30, 2004. However, the Office of Patent Application Processing will review and calculate the appropriate claims fees in light of any increase of claim fees since 2004.

limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost four 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. Petitioner has provided correspondence to attorney Stretch beginning February 20, 2008, almost four years after the filing of the application. Although petitioner indicates that several phone calls were made to attorney Stretch prior to February 20, 2008 petitioner has failed to provide any evidence to support that phone calls were made September 2004, April and October 2005, May 2006, October 2006 and Spring 2007. Accordingly, any renewed petition must explain what effort(s)attorney Stretch made to further reply to the outstanding Notice 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 (attorney Stretch) from a deliberate course of action (or inaction). Likewise, as Maureen Stretch was counsel at the time of abandonment, an explanation why this application became abandoned while it was under her control and what efforts made to reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever

else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Notice.

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 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 persons 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).

In this instance, petitioner states that she first became aware the application was abandoned on April 28, 2008. Yet a petition to have the application revived was not filed until September 11, 2009 almost a year and a half later. Stating that petitioner was seeking the service of a patent attorney for a year and a half is not sufficient to establish that the delay in filing the petition was unintentional. Petitioner should provide evidence that she spent almost a year and a half locating and engaging the services of new patent counsel and recalling events. If petitioner is unable to provide evidence that there was no intentional delay, a petition under 37 CFR 1.137(b) may not be granted.

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

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

PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Ajay Desai	: DECISION ON REQUEST FOR
Patent Number	: 7600230	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,338	: 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 **1183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
GALLANT, et al.	:	
Application No. 10/885,369	:	DECISION GRANTING PETITION
Filed: July 06, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7175-75426	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 01, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and request for correction of Inventorship under 37 CFR 1.48(a).

Frances Hicks

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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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

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DEC 07 2005

OFFICE OF PETITIONS

Applicant: Janka et al.
Application No. 10/885,410
Filed: July 7, 2004
For: METHOD AND DEVICE FOR PRODUCING OPTICAL MATERIAL, AND AN OPTICAL WAVEGUIDE

: Decision On Petition

This is a decision on the petition under 37 CFR 1.181 or 1.182 received on November 14, 2005, requesting that the redacted version of the above identified application be published as previously requested. Since 37 CFR 1.217(b) requires a submission in compliance with the Office electronic filing system requirements, the petition is being treated under 37 CFR 1.181 and the petition fee will not be refunded.

Petitioners assert that the request for redacted publication was turned down because the EFS submission, which was otherwise correct, contained the wrong filing date. Petitioner asserts the date inserted was the filing date of the request and not the filing date of the application, but that the data field in EFS "merely asks for 'Filing Date,' rather than 'Application Filing Date.'" Petitioner argues that since the EFS screen does not ask for the filing date of the application that the filing date of the request was entered and since all of the other information correctly identified the application that the request for pregrant publication of the redacted version should be granted.

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

On July 7, 2004, the above-identified application was filed on the USPTO. On November 1, 2005, Petitioner filed a request for redacted publication via the PTO's Electronic Filing System to comply with 37 CFR 1.217(b) and also submitted supporting documents to comply with 37 CFR 1.217(c). November 2, 2005 was the deadline to file a request for redacted publication under 37 CFR 1.217. On November 7, 2005, the submission for redacted publication was reviewed and a notice rejecting the submission was mailed because the filing date provided by Petitioner did not match the official filing date of the application.

With respect to Petitioner's assertion that the data field on the EFS screen "merely asks for 'Filing Date,' rather than 'Application Filing Date,'" the field is in a portion of a screen labeled "Application Information" which then requests the "Application number", "Confirmation number," "Filing date," and "Attorney docket number." Since the field "Filing date" is under the phrase "Application information" it clearly refers to that application's filing date. This is also

the same header information requested to be on every paper filed in the Office. See MPEP 402. Furthermore, the use of the phrase "filing date" is consistently used throughout the MPEP to refer to an application's filing date. Furthermore, the EFS Submission User Manual instructs applicants to insert the actual filing date of the application. http://www.uspto.gov/ebc/efs/downloads/documents.htm

With respect to Petitioners argument that since all of the other information is correct that the application is correctly identified, one of the problems with the incorrect filing date is that the filing date inserted by Applicants cannot be changed for publication purposes by the USPTO. Thus, since Petitioner waited until the end of the time period to file the request for redacted publication, if Petitioner were permitted to resubmit another EFS submission, then the application would not be timely published under 35 U.S.C. 122(b). Furthermore, the paper submission under 37 CFR 1.217(c) is incomplete, as the declaration was omitted.

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. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $130 fee for the petition under 37 CFR 1.181 has been charged to petitioner's Deposit Account (22-0261).

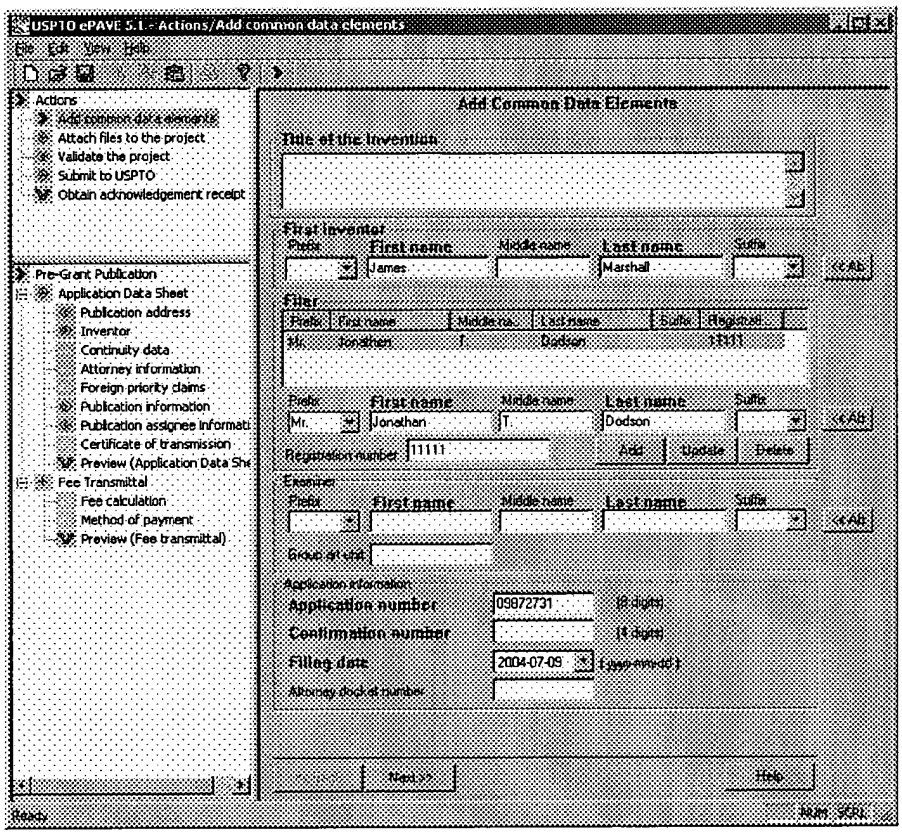
Telephone inquiries regarding this communication should be directed to Mark O. Polutta undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: pages 35-37 of the EFS Submission Manual
enlarged screen shot of the Add Common Data Elements page from EFS

Providing Data Within the Pre-Grant Publication Module

Add Common Data Elements Screen



Add Common Data Elements Screen

- Enter data that will be used on more than one ePAVE-created form in the data entry boxes.

Title of the Invention

- Enter the full title of the patent application. Include all spaces and punctuation. The title may contain a maximum of 500 alphanumeric characters. REQUIRED.

First Inventor

- Enter the name of the inventor who is listed first in the declaration of the patent application related to this submission. REQUIRED.

Prefix- Enter any name prefix of the first named inventor. Choose the desired prefix from the drop-down menu or type directly into the data field. OPTIONAL.

First name - Enter the first or given name of the first named inventor. REQUIRED.

Middle name - Enter any middle name of the first named inventor. OPTIONAL.

Last name – Enter the last or family name of the first named inventor. REQUIRED.

Suffix – Enter any name suffix of the first named inventor. OPTIONAL.

All changes to the first inventor name information must be made from the ***Add Common Data Elements*** screen.

NOTE: Each name should contain a maximum of 50 characters. Characters beyond the 50th will be truncated within USPTO internal automated information systems.

Filer

- Enter the name and any registration number of the person filing the submission.

Prefix- Enter any name prefix of the filer. Choose the desired prefix from the drop-down menu or type directly into the data field. OPTIONAL.

First name - Enter the first or given name of the filer. REQUIRED.

Middle name – Enter any middle name of the filer. OPTIONAL.

Last name - Enter the last or family name of the filer. REQUIRED.

Suffix – Enter any name suffix of the filer. OPTIONAL.

Registration number – Enter the USPTO registration number of the filer. The USPTO assigns registration numbers to patent attorneys who are registered to practice before the USPTO. Pro se applicants (independent inventors) will not have a registration number and so this field is OPTIONAL.

- Select the *Add* button to add the filer. Repeat for each filer.

Add, Update, or Delete Information	Select the ***Add*** button after entering the filer information. Enter additional filer name information if more than one person is filing the submission. To edit filer information, select a filer's name from the list. The filer's name will be available in the data entry boxes for editing when the name is selected. Edit the information and select the ***Update*** button. To delete a filer, select the filer's name from the list and select the ***Delete*** button.

Examiner

- Enter the name of the examiner assigned or likely to be assigned to the corresponding patent application. OPTIONAL.

Prefix- Enter any name prefix of the examiner. OPTIONAL.

First name - Enter the first or given name of the examiner. REQUIRED if an examiner is specified.

Middle name – Enter any middle name of the examiner. OPTIONAL.

Last name - Enter the last or family name of the examiner. REQUIRED if an examiner is specified.

Suffix – Enter any name suffix of the examiner. OPTIONAL.

Group Art Unit – Enter the Examiner's group art unit. OPTIONAL.

Application Information

- Enter information regarding the patent application associated with this submission.

Application number - Enter the eight-digit application number of the patent application associated with this submission. REQUIRED.

Confirmation number – Enter the four-digit confirmation number of the patent application associated with this submission. REQUIRED.

Filing date – Enter the actual filing date of the patent application associated with this submission.

Attorney docket number - Enter a reference number of up to 25 characters that is used to identify the patent application. This number is not assigned by the USPTO and can be any combination of numbers and letters. OPTIONAL.

USPTO ePAVE 5.2 - Actions/Add common data elements

File Edit View Help

- Actions
  - Add common data elements
  - Attach files to the project
  - Validate the project
  - Submit to USPTO
  - Obtain acknowledgement receipt
- Pre-Grant Publication
  - Application Data Sheet
    - Publication address
    - Inventor
    - Continuity data
    - Attorney information
    - Foreign priority claims
    - Publication information
    - Publication assignee informatic
    - Certificate of transmission
    - Preview (Application Data She
  - Fee Transmittal
    - Fee calculation
    - Method of payment
    - Preview (Fee transmittal)

Add Common Data Elements

Title of the invention

First Inventor

Prefix | **First name** | Middle name | **Last name** | Suffix | << Ab

Filer

Prefix	First name	Middle na...	Last name	Suffix	Registrati...

Prefix | **First name** | Middle name | **Last name** | Suffix | << Ab

Registration number | Add | Update | Delete

Examiner

Prefix | **First name** | Middle name | **Last name** | Suffix | << Ab

Group art unit

Application information

Application number (8 digits)

Confirmation number (4 digits)

Filing date 2005-12-05 (yyyy-mm-dd)

Attorney docket number

<< Back | Next >> | Help

Ready NUM

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P.O. BOX 34385
WASHINGTON DC 20045-9998

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DEC 3 0 2005

OFFICE OF PETITIONS

Applicant: Janka et al.
Application No. 10/885,410
Filed: July 7, 2004
For: METHOD AND DEVICE FOR PRODUCING OPTICAL MATERIAL, AND AN OPTICAL WAVEGUIDE

: Decision Dismissing
: Petition

This is a decision in response to the petition "Petition for Reconsideration of Dismissal of Petition Under 37 CFR 1.181 for Grant of Redacted Pre-Grant Publication Under 37 CFR 1.217 or, Alternatively for Suspension of the Rules Under 37 CFR 1.183" received on December 8, 2005. Since, this is the first petition under 37 CFR 1.183, the decision will not be a final agency decision.

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

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner asserts that the request for redacted publication was turned down because the EFS submission, which was otherwise correct, contained a minor error in the EFS submission. Petitioner asserts that he called the Office on November 10, 2005 and November 14, 200 and held a series of telephone conversations with Office personnel and that he was led to believe the sole reason that the request was turned down was that the publication request contained an error in the data field for the filing date, as the date of submission was entered and not the application's filing date. Petitioner argues that the request was otherwise correct and contained all the identifiers for example the application number, first inventor's name and the attorney docket number. Petitioner argues that, based on these facts, the first petition was submitted. Petitioner asserts that the incorrect entry for the filing date is a trivial error that causes no ambiguity in identifying the application and that its correction is a simple matter for PTO employees or contractors. Petitioner argues that the statement in the decision that the date cannot be changed is completely arbitrary and without support in the MPEP, 37 CFR or 35 U.S.C. Petitioner argues that when an application is published in the pre-grant publication process, the header information is clearly set by PTO and /or contract personnel, as applicants do not submit this information in the form in which it is published. Petitioner argues that while checking the filing date may create a hardship for the Office, since the Office already checks the information, it is not a hardship.

Petitioner asserts that since the EFS screen automatically fills in the filing date with the present date, it is confusing even though the EFS Manual instructs one to enter the application filing date. Petitioner asserts that one may assume the EFS system is asking for the date of the submission. Petitioner asserts that the EFS system should be as clear as possible and ask for "Application Filing Date" and not contain a default value equal to today's date. Petitioner asserts that in view of the EFS system, it is unreasonable and arbitrary to refuse to tolerate such a trivial error.

Petitioner argues that the 37 C.F.R. does not require a correct filing date to be entered for submissions in connection with a filed application and the MPEP provides for correction of an incorrect filing date in post-filing submissions. Petitioner asserts that the header information as discussed in the MPEP is not required and that the only required identification information under 37 CFR 1.5 is the application number or the serial number and the filing date assigned. Petitioner argues that the application number was correctly entered.

Petitioner asserts that all required papers were submitted under 37 CFR 1.217(c). Petitioner states that while the decision states that the declaration was not submitted, it was not noted in the Notice mailed November 7, 2005. Petitioner argues that this is his first formal notice of this alleged deficiency in their submission. Petitioner states that notice should have been provided of this allegation previously and that Petitioner would have addressed this earlier. Petitioner asserts that all of the required documents required under 37 CFR 1.217(c) were submitted as evidenced by the date stamped post card.

Petitioner asserts that this petition should be granted under 37 CFR 1.181, but if not that it should be granted under 37 CFR 1.183. Petitioner states that to their best efforts the requirements of 37 CFR 1.217 were complied with and that only due to a misunderstanding with the EFS system, there was a minor mistake. Petitioner argues that denying the petition due to such a minor would be unjust and could lead to commercial harm to Applicants in that the instant application contains information not found in the Finnish priority application. Petitioner asserts that competitors would obtain information, which would cause erosion of Applicants' market position in Finland. Petitioner further argues that the PTO would be caused little if any hardship in correcting the error in the filing date, which Petition asserts is the sole reason for the denial of their request for redacted publication because Petitioner has not had an adequate opportunity to address the alleged incompleteness of the submission.

§ 1.217 Publication of a redacted copy of an application.

(a) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign-filed applications or the description of the invention in such foreign-filed applications is less extensive than the application or description of the invention in the application filed in the Office, the applicant may submit a redacted copy of the application filed in the Office for publication, eliminating any part or description of the invention that is not also contained in any of the corresponding applications filed in a foreign country. The Office will publish the application as provided in § 1.215(a) unless the applicant

files a redacted copy of the application in compliance with this section within sixteen months after the earliest filing date for which a benefit is sought under title 35, United States Code.
(b) The redacted copy of the application must be submitted in compliance with the Office electronic filing system requirements. The title of the invention in the redacted copy of the application must correspond to the title of the application at the time the redacted copy of the application is submitted to the Office. If the redacted copy of the application does not comply with the Office electronic filing system requirements, the Office will publish the application as provided in § 1.215(a).
(c) The applicant must also concurrently submit in paper (§1.52(a)) to be filed in the application:
(1) A certified copy of each foreign-filed application that corresponds to the application for which a redacted copy is submitted;
(2) A translation of each such foreign-filed application that is in a language other than English, and a statement that the translation is accurate;
(3) A marked-up copy of the application showing the redactions in brackets; and
(4) A certification that the redacted copy of the application eliminates only the part or description of the invention that is not contained in any application filed in a foreign country, directly or through a multilateral international agreement, that corresponds to the application filed in the Office. . . .

On July 7, 2004, the above-identified application was filed on the USPTO.

On November 1, 2005, Petitioner filed a request for redacted publication via the PTO's Electronic Filing System to comply with 37 CFR 1.217(b).

On November 2, 2005, Petitioner submitted supporting documents to comply with 37 CFR 1.217(c). November 2, 2005 was the deadline to file a request for redacted publication under 37 CFR 1.217.

On November 7, 2005, the submission for redacted publication was reviewed and a notice rejecting the submission was mailed because the filing date provided by Petitioner did not match the official filing date of the application.

On November 14, 2005, a petition under 37 CFR 1.181 or alternatively under 37 CFR 1.182 was received by the Office.

On December 7, 2005, a decision dismissing the petition was mailed by the Office.

With respect to Petitioner's assertion that the filing date entry is a trivial matter in identifying the application that can be corrected by Office personnel and that the CFR does not require a correct filing date to be entered for submissions. The EFS submission submitted by applicants including the bibliographic information is forwarded to the publisher for publication purposes. The EFS system does not permit Office personnel to change an EFS submission. "The applicant is responsible for correctly authoring the electronic application, which is defined as reformatting the application into a form that complies with the requirements of XML (the standard eXtensible Markup Language of Internet authoring)." The Office uses the submission created by applicants,

which has been tagged in XML to create the pre-grant publication. [1] While petitioner argues that the CFR does not require a correct filing date, 37 CFR 1.217(b) requires that applicant submit a redacted copy of the application in compliance with the Office electronic filing system requirements. The submission by applicant did not comply with the Office electronic filing system requirements. The EFS Submission User Manual instructs applicants to insert the actual filing date of the application. (Previously supplied by the Office).

With respect to Petitioner's argument that the EFS soft ware should be clearer, the data field on the EFS screen asks for "Filing Date," which is under the phrase "Application information" thus it clearly refers to that application's filing date and not the date of the redacted submission to the Office. Furthermore, the instructions in the EFS Submission User Manual clearly instruct applicants to insert the actual filing date of the application. Therefore the instructions are clear.

With respect to Petitioners assertions that that neither the rules nor the MPEP require the correct filing date to be submission to the Office, 37 CFR 1.217(b) requires a submission in compliance with the Office electronic filing system requirements.

With respect to Petitioners' arguments that all of the required papers were submitted, 35 U.S.C. 111(a)(2) sets forth the contents of an application for patent and provides that an application includes an oath by the applicant as prescribed by section 115 of this title. 35 U.S.C. 25 provides that a declaration may be filed instead of an oath, if provided for by the Director. Neither the EFS submission, nor the paper marked up copy of the redacted application included a copy of the declaration for the patent application. The November 1, 2005, post card relied upon by applicant does not itemize the number of pages or the parts of the application that were submitted. The Office did not receive a copy of the declaration for the marked up copy of the redacted application. Furthermore, the copy of the Acknowledgement Receipt for the EFS submission does not indicate that a copy of the declaration was attached. 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 CFR 1.53(a)). See MPEP 503. Since the postcard did not itemize the declaration, it cannot serve as evidence that the declaration was included with the paper submission of the marked up copy of the application.

With respect to Petitioner's assertion that he was led to believe that the error in the filing date was the sole reason his request for redacted submission was rejected, the Notice mailed by the Office only indicates a single problem for the submission, however Petitioner was told in a conversation on November 10, 2005, that there was also a problem with the Declaration. On November 14, 2005, Petitioner was told that he should review his submission to ensure that it was otherwise complete, but that the failure to use the correct filing date was a sufficient reason to make the request for redacted publication noncompliant.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 66, 83 (Oct. 10, 2000) (final rule).

Alternatively, Petitioner argues that the rules should be waived or suspended because it would be unjust to allow early disclosure of Petitioners valuable trade secrets because it would lead to commercial harm. Suspension of the rules under 37 C.F.R. § 1.183 may be granted only "[i]n an extraordinary situation, when justice requires...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of § 1.183. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice. Specifically, Petitioner waited until the last day to complete the submission for redacted publication, thus there was no time remaining to file a correction.

35 U.S.C. 122(b)(2)(B)(v) provides for redacted publication, and states that applicant may submit a redacted copy of the application, "eliminating any part of the description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country." The declaration is part of the application, and the declaration was not submitted in redacted form. Accordingly, applicant did not comply with the provisions of the statute, and the Office has no authority to waive the requirements of the statute.

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. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $400 fee for the petition under 37 CFR 1.183 has been charged to petitioner's Deposit Account (22-0261).

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

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Robert Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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JORDAN AND HAMBURG LLP
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SUITE 4000
NEW YORK NY 10168

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Miyazaki	:	
Application No. 10/885,417	:	DECISION
Filing Date: 6 July, 2004	:	
Attorney Docket No.: F83-17	:	

This is a decision on the petition filed on 17 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 January, 2006, with reply due absent extension of time on or before 13 April, 2006;
- the instant application went abandoned after midnight 13 April, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant

petition was filed;

- on 17 April, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

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

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

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

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

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

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

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

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, 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]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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MINNEAPOLIS MN 55440-1022

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,452,984	:
Espy et al.	: DECISION DISMISSING
Application No. 10/885,437	: REQUEST FOR
Issue Date: November 18, 2008	: RECONSIDERATION OF
Filed: July 6, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No.	: UNDER 37 CFR 1.705
20014-003002	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed on January 21, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred twenty-four (324) days to five hundred thirty-seven (537) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred twenty-three (223) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under
§ 1.136.

BACKGROUND

The above-identified application matured into U.S. Patent No. 7,452,984 on November 18, 2008 with a revised patent term adjustment of 324 days. On January 21, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee).

Patentee asserts that the correct number of days of Patent Term Adjustment is 537 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts

that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day."

Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 733 (419 + 314 – 0 overlap) days as these periods do not occur on the same day.

Further, patentee asserts that in addition to the applicant delay of 95 days, the patent term should be reduced an additional 101 days in connection with the filing of a reply on May 15, 2008, 101 days after the filing of a reply containing an omission on February 4, 2008.

Given the applicant delay of 196 (95+101) days, patentee asserts entitlement to 537 (733 – 196) days of patent term adjustment.

OPINION

Preliminarily, it is noted that patentee asserts that the earliest request for continued examination was filed on May 15, 2008, the date that an amendment in compliance with 37 CFR 1.121 was filed as the submission required under 37 CFR 1.114. However, a review of the record reveals that a request for continued examination and submission under 37 CFR 1.114 were filed on February 4, 2008. While it is noted that the RCE filed on February 4, 2008 was filed with a non-compliant amendment, MPEP 706.07(h) states, in pertinent part, that an RCE filed with a submission which is an amendment that is not in compliance with 37 CFR 1.121, but which is a *bona fide* attempt to provide a complete reply to the last Office action, should be treated as a proper RCE and a Notice of Noncompliant Amendment should be mailed to the applicant.

On February 4, 2008, the RCE and submission were filed. On May 5, 2008, a notice of non-compliant amendment was filed setting a one (1) month time period to file a corrected amendment. On May 15, 2008, a corrected amendment was filed. Accordingly, the RCE and submission are considered to have been filed on February 4, 2008, not May 15, 2008. The period of delay under 37 CFR 1.702(b) is the period from July 7, 2007, or day after the date that is three years from the filing date of the application, to the filing of the request for continued examination on February 4, 2008, or 213 days, not 314 days.

Thus, as of the filing of the RCE on February 4, 2008, the application was pending three years and 213 days. The Office determined that the 213 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 419 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the application. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision.

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

> 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)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

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[1] 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.

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, July 6, 2004, and ending on the date of filing of a request for continued examination (RCE), February 4, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 419 days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 213 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 213 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 419 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 213 days and the 419 days is neither permitted nor warranted. 419 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of adjustment pursuant to 37 CFR 1.702(b) for a total of the greater period of 419 days for Office delay.

Patentees additionally assert that a 101 day period of reduction should be entered in connection with the amendment filed May 18, 2008.

A review of the record reveals that patentee is correct in that the Office neglected a reduction of 101 days in connection with the amendment filed May 18, 2008 pursuant to 37 CFR 1.704(c)(7).

In accordance with 37 CFR 1.704(c)(7), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application includes submission of a reply having an omission (§1.135(c)).

Accordingly, the reduction commenced February 5, 2008 the day after the date the reply having an omission was filed, and ended May 15, 2008, the date reply or other paper correcting the omission was filed.

CONCLUSION

Accordingly, at issuance, the Office should have entered 223 days of patent term adjustment (adjustment of 419 days less reductions of 196 days (93 days + 2 days + 101 days)).

The Office thanks Patentees for their good faith and candor in bringing the matter of the reduction pursuant to 37 CFR 1.704(c)(7) to the Office's attention.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred twenty-three **(223)** days.

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Encl: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,452,984 B2

DATED : November 18, 2008

INVENTOR(S) : Espy 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 (324) days

Delete the phrase "by 324 days" and insert – by 223 days--

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PETER K. TRZYNA, ESQ.
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CHICAGO IL 60680

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OFFICE OF PETITIONS

In re Application of	:	
Wayne F. Perg et al.	:	
Application No. 10/885,442	:	DECISION ON PETITION
Filed: September 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. Newmrkt-P2-04	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 5, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 4143 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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191 PEACHTREE STREET, N.E.
45TH FLOOR
ATLANTA GA 30303-1763

In re Application of :
COMER, EDWARD I., et al. :
Application No. 10/885,445 :
Filed: July 6, 2004 :
For: **METHOD AND SYSTEM FOR IMPROVED SHORT MESSAGE SERVICES** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed June 6, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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TC 3600

PHILIP A. DALTON
NO. 15
236 West Portal Avenue
San Francisco, CA 94127-1426

In re application of
Daniel D. Freitas et al
Application No. 10/885,486
Filed: July 06, 2004
For: ACTIVE MOLD, METHOD AND PROCESS

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

This is a decision on the petition submitted on November 19, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Miller indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 12/08/04

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

In re Application of
TABANKIN, et al.
Application No. 10/885,515
Filed: July 6, 2004
For: PORTABLE HANDHELD SECURITY DEVICE

:DECISION ON PETITION
:TO MAKE SPECIAL

This is a decision on the petition to make special filed October 14, 2004, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI) sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d).

M.P.E.P. §708.02 (XI) INVENTIONS FOR COUNTERING TERRORISM
In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.
International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: PATENT COUNSEL
MAIL STOP 202A-4
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OFFICE OF PETITIONS

In re Application of	:	
Goorjian, Peter M.	:	
Application No. 10/885,533	:	DECISION ON PETITION
Filed: June 30, 2004	:	
Attorney Docket No. AR-14682-2	:	

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

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/22/08**

TO SPE OF : ART UNIT **1792 (1700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/885,567** Patent No.: **7,381,271**

Attn: Yewebdar Tadesse

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to insert --item (60) Related Application Data-- as requested in the cocin?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

NADINE G. NORTON
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/22/08**

TO SPE OF : ART UNIT **1792 (1700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/885,567** Patent No.: **7,381,271**

Attn: Yewebdar Tadesse

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to insert --item (60) Related Application Data-- as requested in the cocin?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 0 5 2010

Peter K. Trzyna
P.O.Box 7131
Chicago, IL 60680-7131

In re Application of: Richard A. Graff	:	**DECISION ON PETITION**
Application No.: 10/885,569	:	**TO WITHDRAW AN**
Filed: July 6, 2004	:	**OFFICE ACTION**
For: AUGMENTED SYSTEM AND	:	**UNDER 37 C.F.R. 1.181**
METHODS FOR COMPUTING TO	:	
SUPPORT FRACTIONAL CONTIGEN	:	
INTEREST IN PROPERTY	:	

This is in response to the petition filed on November 14, 2008 under 37 C.F.R. 1.181 requesting the withdrawal of the Office Action mailed on June 26, 2008, and a Non-Responsive Reply mailed on October 17, 2008.

The petition is **DISMISSED**.

Applicant asserts that it was improper to deny entry on the ground of noncompliance of the preliminary amendment and an Information Disclosure Statement (IDS) filed on June 20, 2008, and a second IDS filed on June 24, 2008 since these submissions were filed before the issuance of the first Office action of June 26, 2008.

The record shows that applicant filed an IDS and a preliminary amendment amending the original claims 1-3 and adding new claims 4-38 on June 20, 2008, and a second IDS on June 24, 2008. The examiner issued a first Office action on June 26, 2008 rejecting the original claims 1-3. Applicant filed a response on July 9, 2008 requesting withdrawal of the Office action of June 26, 2008 and brought to the examiner's attention of the preliminary amendment of June 20, 2008. Subsequently, a Notice of Non-Responsive Reply was mailed on October 17, 2008 on the grounds that applicant's response was not fully responsive to the Office action of June 26, 2008. In denying entry of the Preliminary Amendment, the examiner contends that the preliminary amendment "crossed the last Office action in the mail", and it would have unduly interfered with the preparation of the first Office action in accordance with 37 CFR § 1.115.

The applicant filed a response to the Notice of Non-responsive reply on November 14, 2008 arguing that the examiner has not established a case of noncompliance on the preliminary amendment of June 20, 2008. Along with the response, applicant filed this petition. The examiner issued a second non-final Office action on April 17, 2009 maintaining the ground of noncompliance of the preliminary amendment.

On August 7, 2009 applicant filed a Request for Withdrawal of the petition of November 14, 2008.

On December 3, 2009, the examiner mailed a supplemental Non-final Office action indicating the entry of the preliminary amendment of June 20, 2008 and the examination of claims 1-38.

Since the preliminary amendment of June 20, 2008 was entered and all of claims 1-38 were examined by the Office action of December 3, 2009, the issues raised in the petition of November 14, 2008 are moot. Accordingly, the petition is DISMISSED.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Kambiz Abdi at (571) 272-6702.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

LM
ka/lm: 1/28/10

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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Magdalena M. Fincham
Five High Ridge Park
Stamford CT 06905

COPY MAILED
JUL 0 8 2005
OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	DECISION ON PETITION
Application No. 10/885,570	:	
Filed: July 6, 2004	:	
Attorney Docket No. 02-044A	:	

This is a decision on the petition under 37 CFR 1.53, filed May 16, 2005, requesting that the above-identified application be accorded a filing date of July 6, 2004.

On July 6, 2004, applicants deposited the above-identified application. On October 14, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings. Additionally, the Notice indicated the declaration did not comply with 37 CFR 1.63 because it did not identify the citizenship of each inventor.

In response, on May 16, 2005, applicants filed the present petition, a new declaration, and a copy of applicants' postcard receipt acknowledging receipt of 21 sheets of drawings (Figs. 1A-20) on July 6, 2004. Additionally, applicants submitted a duplicate copy of the 21 sheets of drawings with the present petition.

Upon review of the record, the 21 sheets of drawings, deposited on July 6, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 6, 2004, included 21 sheets of drawings, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the 21

sheets of drawings, was complete on filing and will be granted a filing date of July 6, 2004.

Accordingly, the petition is granted.

The requirement for drawings set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $130.00 petition fee will be credited to Deposit Account No. 50-0271.

The Office finance records indicate that applicants submitted a request for a five-month extension of time to respond to the Notice of Incomplete. However, extensions of time to reply to the Notice of Incomplete were not available. Therefore, the $1,080.00 extension of time fee will be credited to Deposit Account No. 50-0271.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of July 6, 2004**, using the 21 sheets of drawings submitted on May 16, 2005, as part of the original disclosure, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAC

Magdalena M. Fincham
Five High Ridge Park
Stamford CT 06905

COPY MAILED
JUL 0 8 2005
OFFICE OF PETITIONS

In re Application of :
Walker et al. : DECISION ON PETITION
Application No. 10/885,570 :
Filed: July 6, 2004 :
Attorney Docket No. 02-044A :

RECEIVED
OIPE/IAP
JUL 2 8 2005

This is a decision on the petition under 37 CFR 1.53, filed May 16, 2005, requesting that the above-identified application be accorded a filing date of July 6, 2004.

On July 6, 2004, applicants deposited the above-identified application. On October 14, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings. Additionally, the Notice indicated the declaration did not comply with 37 CFR 1.63 because it did not identify the citizenship of each inventor.

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Upon review of the record, the 21 sheets of drawings, deposited on July 6, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 6, 2004, included 21 sheets of drawings, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the 21

sheets of drawings, was complete on filing and will be granted a filing date of July 6, 2004.

Accordingly, the petition is granted.

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The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of July 6, 2004**, using the 21 sheets of drawings submitted on May 16, 2005, as part of the original disclosure, and to mail a corrected filing receipt.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 10, 2008

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/885584 Patent No.: 7319842 B2

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

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

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Judy Nguyen
JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

SPE

2854
Art Unit

SPE: T. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/4/06

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/885,586 Patent No.: 7062667

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.

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

Comments: The change would not materially affect the scope or meaning of the patent.

DMB

SPE

2115
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH,LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 10006-1021

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Mitsuaki Oshima et al	:	
Application No. 10/885,589	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 2004_1088	:	

This is a decision on the petition, filed August 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 26, 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 2115 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES 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 : August 31, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Mitsuaki Oshima et al
Application No. :10/885,589
Filed :July 8, 2004

The above-identified application has been assigned Patent No. 7,107,470 and an issue date of September 12, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 12, 2006:

"All reference to Patent No. 7,107,470 to Mitsuaki Oshima et al of Japan for DATA PROCESSING APPARATUS appearing in the Official Gazette of September 12, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

COPY MAILED

FEB 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Ben Hsu	:	
Application No. 10/885,597	:	DECISION ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. BHT-3125-230	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 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 August 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 1, 2006. Accordingly, the date of abandonment of this application is August 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5/15/2008**

TO SPE OF : ART UNIT **2800 (2874)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,245,802**

Attn: Sung Pak

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

***Ok to enter changes to claims as req. in COCIN?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

2874

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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DEC 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/885,636	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 0756-7352	:	

This is a decision on the petition, filed December 21, 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 20, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 06/15/2010

Applicant	: Adrian Thomas	: DECISION ON REQUEST FOR
Patent Number	: 7632420	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/885,648	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **833** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-2200

MAIL

APR 11 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
HIROMI IKEDA	:	DECISION ON REQUEST TO
Application No. 10/885662	:	PARTICIPATE IN PATENT
Filed: July 8, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 00862.023642	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES 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.

Martin MOYNIHAN
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

COPY MAILED
DEC 27 2004
OFFICE OF PETITIONS

In re Application of :
Rott et al. :
Application No. 10/885,688 :
Filed: July 8, 2004 : ON PETITION
Attorney Docket Number: :
28089 :

This is a decision in response to the Petition and Response to Notice of Incomplete Nonprovisional Application, filed November 26, 2004, requesting the application be accorded a filing date of July 8, 2004, including 2 sheets of drawings. The petition is properly treated under 37 CFR 1.53.

The petition is **granted**.

The application was filed on July 8, 2004. However, on October 13, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that the application had NOT been accorded a filing date because the application was deposited without drawings.

In response, Applicant files the instant petition wherein Applicant avers that 2 sheets of drawings were originally filed with the application on July 8, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Applicant provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 2 sheets drawings on July 8, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *inter alia*, 2 sheets drawings on July 8, 2004. Petitioner has also re-submitted 2 sheets of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-

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

The copy of 2 sheets of drawings, supplied with the instant petition on November 26, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 50-1407 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of July 8, 2004, and an indication that 2 sheets of drawings were present on filing, using the 2 sheets of drawings filed on November 26, 2004.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

APR 17 2006

In re Application of:
Oswald Kuwert et al.
Serial No.: 10/885,697
Filed: July 8, 2004
Attorney Docket No.: 105273.02

DECISION ON PETITION
TO RESET PERIOD FOR RESPONSE

This is a decision on the petition filed on May 31, 2005 under 37 C.F.R. § 1.181 to reset the period of reply to an office action. There is no fee for this petition.

A non-final Office action was mailed on October 14, 2004. As pointed out in the decision and confirmed by a review of the application file, the Office action was returned to the USPTO on October 21, 2004 by a different law firm than the one to whom the Office action was correctly addressed. As such, it is clear that applicant's attorney did not receive the Office action through the mail. Instead, the petition indicates that the Office action was obtained by applicant's attorney by downloading it from the PTO website on May 26, 2005.

The petition requests that the period for reply to the Office action mailed on October 14, 2004 be restarted to start on May 26, 2005, i.e., the date the applicants became aware of the Office action.

The petition is GRANTED.

On November 28, 2005, applicant filed a response to the Office action of October 14, 2004, along with a petition and fee for three month extension of time. This response is accepted as a timely response under the provisions of 37 C.F.R. §§ 1.136(a) and 1.7(a) and will be entered for consideration by the examiner.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/09/06

TO SPE OF : ART UNIT **2834**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/885703 6975053

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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
SPE

2834
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Osamu Hidaka et al	:	
Application No. 10/885,749	:	DECISION GRANTING PETITION
Filed: July 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 255602US2S	:	

This is a decision on the petition, filed October 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 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

C:\Documents and Settings\fhicks\My Documents\470\Oct11\885749.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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Shigeru Yamada	:	
Application No. 10/885,785	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. OKI 429	:	

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 20, 2006.

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.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature of Alun L. Palmer appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/29/09

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10885803 Patent No.: 7405092 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: The Changes are approved and the Patent should read as indicated by the applicant.

_____

_____

_____

_____ **Matthew Smith,SPE TC2800**

_____ **2823**

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DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION
CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of
Del C. Schroeder et al.
Application No. 10/885,818
Filed: July 7, 2004
Attorney Docket No.: 705804US2

ON PETITION

This is a decision on the petition filed August 19, 2009 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on July 7, 2009, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on April 3, 2009. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on July 28, 2009.

Petitioner asserts that the issue fee transmittal and an authorization to charge the issue were filed by facsimile transmission on June 30, 2009.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mailing or transmission dated June 29, 2009 pursuant to 37 CFR 1.8, and a copy of the Auto-Reply Facsimile Transmission acknowledging receipt by the U.S. Patent and Trademark Office.

The evidence submitted corroborates a timely response to the Notice of Allowance and Issue Fee Due. 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 will be referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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GLOBUS MEDICAL, INC.
ATTN: BRIAN MALM VALLEY FORGE
BUSINESS CENTER
2560 GENERAL ARMISTEAD AVENUE
AUDUBON PA 19403

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AUG 01 2008

OFFICE OF PETITIONS

In re Application of	:
Andrew Lee et al	:
Application No. 10/885,841	: DECISION GRANTING PETITION
Filed: July 8, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 0218.022.0002	:

This is a decision on the petition filed October 11, 2007, entitled: REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT or PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION under 37 CFR 1.137(b).

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed September 13, 2004, which set a period for reply of TWO MONTHS. The application became abandoned on November 14, 2004.

The above-identified application has been abandoned for an extended period of time. The 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).

As to the petition under 37 CFR 1.181:

The petition under 37 CFR 1.181 is dismissed because the Notice mailed September 13, 2004, was mailed to the address of record at the time of mailing the Notice. Petitioner states that the Notice was mailed by USPTO in error. However, applicant was given TWO Months to reply. Also, a review of Office records do show that additional claims (numbered 19 and 20) were submitted on July 8, 2004. Therefore, the petition under 37 CFR 1.181 is **dismissed**.

As to the petition under 37 CFR 1.137(b):

The petition under 37 CFR 1.137(b) to revive the above-identified application, is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b).

It is noted that an preliminary amendment filed February 13, 2006, canceled the additional claims numbered 19 and 20.

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

This matter is being referred to the Office of Patent Application Processing for further pre-exam processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

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

MAILED

JUL 20 2010

OFFICE OF PETITIONS

Applicant:	ON PETITIONS
Le Gourlaouen et al	under 37 CFR 1.183
	and 37 CFR 1.705(d)
Application No. 10/885,888	ON REQUEST FOR RECONSIDERATION
Filed: July 8, 2004	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	
05725.1366-00	

This is a decision on the petition filed on November 21, 2008, which is being treated as a petition under 37 CFR 1.705(d) and 37 CFR 1.183 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and eighty-six (786) days. The Office waives the requirement of more than two months under 37 CFR 1.705(d) since such request occurred prior to 180 days from patent grant.

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 seven hundred and eighty-six (786) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and eighty-six (786)** days.

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

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction
Copy of Adjusted PTA calculation

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 13:51:52

PTA Calculations for Application: 10/885888

Application Filing Date:	07/08/2004	PTO Delay (PTO):	592
Issue Date of Patent:	05/27/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	130
Post-Issue Petitions:	0	Total PTA (days):	786
PTO Delay Adjustment:	324		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	07/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
52	07/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	322		
47.5	05/07/2008	PTA 36 MONTHS			
47	05/27/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
46	04/29/2008	EXPORT TO FINAL DATA CAPTURE			
45	04/25/2008	FINISHED INITIAL DATA CAPTURE			
44	04/25/2008	DISPATCH TO FDC			
43	04/01/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
42	03/31/2008	ISSUE FEE PAYMENT VERIFIED			
41	03/31/2008	ISSUE FEE PAYMENT RECEIVED			
40	01/11/2008	EXPORT TO INITIAL DATA CAPTURE			
39	01/07/2008	MAIL NOTICE OF ALLOWANCE			
38	01/02/2008	ISSUE REVISION COMPLETED			
37	01/02/2008	DOCUMENT VERIFICATION			
35	01/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	12/21/2007	NOTICE OF ALLOWABILITY			
33	12/17/2007	DATE FORWARDED TO EXAMINER			
32	12/11/2007	AMENDMENT AFTER FINAL REJECTION			
31	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
30	09/24/2007	MAIL FINAL REJECTION (PTOL - 326)			
29	09/18/2007	FINAL REJECTION			
28	08/13/2007	DATE FORWARDED TO EXAMINER			
27	08/02/2007	RESPONSE AFTER NON-FINAL ACTION		10	25
26	08/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	04/23/2007	MAIL NON-FINAL REJECTION	592		-1
24	04/12/2007	NON-FINAL REJECTION			
23	05/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	06/28/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	02/03/2006	REFERENCE CAPTURE ON IDS			
18.7	02/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/03/2006	PRELIMINARY AMENDMENT			
16	05/05/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	05/05/2005	REFERENCE CAPTURE ON IDS			
14.7	05/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/05/2005	PRELIMINARY AMENDMENT			
12	08/26/2005	CORRESPONDENCE ADDRESS CHANGE			
11	05/23/2005	APPLICATION DISPATCHED FROM OIPE			
10	05/23/2005	APPLICATION IS NOW COMPLETE			
9	05/05/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		120	5
8	05/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	05/05/2005	TRANSLATION OF CLAIMS INTO ENGLISH			
6	05/05/2005	TRANSLATION OF SPECIFICATION INTO ENGLISH			
5	10/05/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	09/22/2004	CLEARED BY L&R (LARS)			
3	09/17/2004	INTENTIONALLY REFERRED BY OIPE OR L&R			
2	07/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/08/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,377,946 B2

DATED : May 27, 2008

INVENTOR(S) : Gourlàouen 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 (462) days

Delete the phrase "by 462 days" and insert – by 786 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

3/28/08

In re Application of: Kishi, Morihiko Serial No.: 10/885,893 Filed: Jul. 28, 2004 Docket: P21-171290M/ISI Title: METHOD FOR MANUFACTURING FLOAT VALVE APPARATUS	DECISION ON PETITION TO WITHDRAW OFFICE ACTION and ISSUE NEW OFFICE ACTION

This is a decision on the petition filed Feb. 6, 2008 to request issuance of a new Office action and restart the time period to reply to the Office action.

The petition is **dismissed**.

In his Feb. 6, 2008 petition, petitioner requests the examiner to issue a new Office action in response to the second preliminary amendment filed Jan. 17, 2008 and restart the time period to reply to the Office action.

The record shows that:

1) On Jan. 2, 2008, the applicant filed an RCE along with an amendment to add new claim 21.
2) On Jan. 9, 2008, the examiner, Sarang Afzali, conducted an interview with the applicant's attorney, Mr. Scott Tulino. According to the Interview Summary, during the interview, *inter alia,* new claim 21 was discussed in detail.
3) On Jan. 17, 2008, the applicant filed a second preliminary amendment by placing the limitations of claim 21 into independent claims 1 and 4 and canceling dependent claim 21.
4) In the meantime, the examiner had prepared a non-final Office action mailed on Jan. 29, 2008.
5) On Feb. 6, 2008, the current petition was filed. In the petition, petitioner requests that a new Office action be mailed and restart a new time period to respond because the examiner failed to consider the Jan. 17, 2008 preliminary amendment.

Discussion

The amendment filed Jan. 17, 2008 can be characterized as supplemental to the reply that was required as part of the submission for an RCE. As such, entry of the second amendment is not a matter of right unless in compliance with 37 CFR 1.111(a)(2). See MPEP 714.03(a)[1]. A review of the claims indicates that the amendment does not qualify for automatic entry under 37 CFR 1.111(a)(2). Therefore, non-entry and non-examination of the supplemental amendment is not incorrect.

A review of the non-final Office action also shows that claims 1-6, 9-11, 14-17 and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by DeCapua et al (US Pat. 6,422,261). A detail explanation of the rejection also was given in the non-final office action of Jan. 29, 2008. Since the applicant did not add any new claims in the supplemental amendment of Jan. 17, 2008, the non-final Office action can be deemed applicable even to the unentered Jan. 17, 2008 supplemental amendment. Therefore, the requested relief can not be granted.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3726 for waiting the applicant's response to the non-final Office action of Jan. 29, 2008. 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 Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

[1] MPEP 714.03(a)>Supplemental< Amendment ** [R-3] (2) *Supplemental replies*. (i) A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section. The Office may enter a supplemental reply if the supplemental reply is clearly limited to: (A) Cancellation of a claim(s); (B)Adoption of the examiner suggestion(s); (C)Placement of the application in condition for allowance; (D)Reply to an Office requirement made after the first reply was filed; (E)Correction of informalities (*e.g.*, typographical errors); or (F)Simplification of issues for appeal.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Myriad Pharmaceuticals, Inc.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

In re Application of :
Cai, et al. :
Application No. 10/885,903 : ON APPLICATION FOR
Filed: July 6, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 5825.04

This is in response to the "APPPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) AND ASSERTION OF SMALL ENTITY STATUS UNDER 37 C.F.R § 1.27(c)(1)", filed August 6, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is a minimum of one thousand four hundred and three (1,403) days, not five hundred ninety-eight (598) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). Patentees assertion of small entity status pursuant to 37 CFR 1.27(c)(1) was previously noted and is of record.

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).

---

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

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc:
Herbert L. Levy, III
Myriad Pharmaceuticals, Inc.
320 Wakara Way
Salt Lake City, UT 84108

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Myriad PHARMACEUTICALS, Inc.
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Sui Xiong Cai	: DECISION ON REQUEST FOR
Patent Number	: 7618975	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/885,903	: 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 **1345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/23/2010

Applicant	: Krishnasamy Anandakumar	: DECISION ON REQUEST FOR
Patent Number	: 7653045	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/885,911	: 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 **1507** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Yagawa
Application No. 10/885,928
Filed: 6 July 2004

For: METHOD AND APPARATUS FOR FILE GUARD AND FILE SHREDDING

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 23 June 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of :
Yuichi Yagawa :
Application No. 10/885,928 : ON PETITION
Filed: July 6, 2004 :
Attorney Docket No. 16869B-114000US :

This is a decision in response to the petition, filed January 24, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 28, 2006. This decision precedes the mailing of a Notice of Abandonment. On January 24, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2188 for consideration of the amendment filed January 24, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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5-22-06

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Patent No. : 7,004,472
Inventor(s) : Diez, et. al.
Issued : February 28, 2006
Title : CYLINDER HEAD GASKET
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or ext. 102

Clifford P. Kelly
Alix, Yale & Ristas, LLP
750 Main Street
Hartford, CT 06103

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/09/09

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10885946 Patent No.: 6988072 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 9C62-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: "On page 2 , in field (56)... cannot be located therefore cannot be entered.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Richemond Dorvil SPE

Art Unit 2626

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OFFICE OF PETITIONS

In re Application of
Sharad MATHUR et al.
Application No. 10/885,947
Filed: July 07, 2004
Attorney Docket No. **5016**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to non-final Office action of October 17, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on June 16, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Wendt	:	
Application No. 10/885,976	:	DECISION ACCORDING
Filed: July 7, 2004	:	STATUS UNDER
For: METHOD TO MAKE WAVELET	:	37 CFR 1.47(b)
WATERMARKS RESISTANT TO AFFINE	:	
TRANSFORMATIONS	:	

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.

On July 7, 2004, applicant filed the above-identified application without an executed oath or declaration. On September 23, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing.

On February 4, 2005, applicant filed the present 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. Applicant submitted the requisite fees. Lastly, on March 21, 2005, applicant filed a new declaration, which identified the inventor's name, mailing address, and country of citizenship as required by 37 CFR 1.63, and was 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

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OFFICE OF PETITIONS

IAN F. BURNS & ASSOCIATES
P.O. BOX 71115
RENO NV 89570

In re Application of	:	
Seelig et al.	:	
Application No. 10/885,981	:	DECISION ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. 619.917 ACC.CIP-JACKPOT T	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before March 15, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 15, 2006. Accordingly, the date of abandonment of this application is March 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00, the publication fee of $300.00, and corrected formal drawings, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

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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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OFFICE OF PETITIONS

In re Application of	:	
Sunay Tripathi	:	
Application No. 10/885,999	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 20910/0206153-USO	:	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 22, 2008.

The request is **APPROVED**.

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

The request was signed by John W. Branch on behalf of all attorneys/agents associated with customer number 62663. All attorneys/agents/associated with customer number 62663 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 assignee. A courtesy copy of this decision will be mailed to address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Osha Liang, LLP/Sun
1221 McKinney, Suite 2800
Houston, TX 77010

cc: Sun Microsystems, Inc.
4150 Network Circle
Santa Clara, CA 95054

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/885,999	07/06/2004	Sunay Tripathi	20910/0206153-US0

CONFIRMATION NO. 8305

POWER OF ATTORNEY NOTICE

OC000000030238181

62663
Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

Date Mailed: 06/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

- 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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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In re Application of :
Maurizio Francesco Perroni et al. :
Application No. 10/886,003 :
Filed: July 7, 2004 :
Attorney Docket No. 03PA11153445 :

ON PETITION

This is a decision on the petition filed April 14, 2008, to restart the office action, which is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181(b) is **GRANTED.**

By operation of law, the application was held abandoned on January 16, 2008 for failure to file a timely response to the non-Final Office Action dated October 15, 2007, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner, a participant in the "E-Office Action Pilot Program", argues that while the Office Action is dated October 15, 2007, the email notification for the non-Final Office Action is dated April 1, 2008 and the Courtesy Reminder Postcard was not mailed until April 9, 2008, after the due date for the response to the Office Action, thus not in accordance with the policies and procedures for notification of outgoing correspondences.

A review of USPTO records confirms that the "e-Office Action applicant" was not timely notified for the office action dated October 15, 2007. In view thereof, the holding of abandonment is withdrawn. The petition fee in the amount of $130.00 is being credited back to deposit account no. 01-0484.

This application is being forwarded to the Technology Center 2111 for a re-mailing of the non-Final Office Action originally dated October 15, 2007 and for a re-setting of the period for reply.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/25/10

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/886008 Patent No.: 7655265-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: _____

DETB 3/15/10

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DR., 7TH FL.
SAN DIEGO, CA 92122

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Xitong LI, et al	:	
Application No. 10/886,019	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 39740-0019	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2008.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP, has been revoked by the assignee of the patent application on September 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communication from the Office will be directed to the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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ELLEN LELITA
5630 VERNON ROAD
JACKSONVILLE FL 32209-2246

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OFFICE OF PETITIONS

In re Application of	:	
Ellen Lelita Thomas	:	
Application No. 10/886,028	:	ON PETITION
Filed: July 7, 2004	:	
Title: Dress-Me-Readi	:	

This is in response to the letter filed July 17, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.181".

As set forth in MPEP 711.03(c)(I), a petition to withdraw the holding of abandonment is appropriate in those instances where an applicant contends that the application is not in fact abandoned. However, where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), the appropriate remedy is a petition to revive the abandoned application under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay).

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed October 18, 2005, which set a shortened statutory period for reply of three (3) months. Applicant contends that she timely filed a response (an amendment) on January 7, 2006. In support thereof, applicant has included a copy of a facsimile confirmation page. However, the confirmation page does not indicate that the transmission was successful. Rather, the page indicates that none of the pages were transmitted due to a busy signal.

Regardless, even if the transmission did go through successfully, the issue is where applicant filed a **proper** response. As set forth in the Advisory Action mailed August 15, 2006, the amendment did not place the application in condition for allowance. A proper response to a final office action consists of either: (1) an amendment that *prima facie* places the application in condition for allowance; (2) a Notice of Appeal; (3) a Request for Continued Examination, or (4) a continuing application.

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. 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.

Applicant may wish to consider reviving the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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

Telephone inquiries 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ELLEN LELITA
5630 VERNON ROAD
JACKSONVILLE FL 32209-2246

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OFFICE OF PETITIONS

In re Application of	:	
Ellen Lelita Thomas	:	
Application No. 10/886,028	:	ON PETITION
Filed: July 7, 2004	:	
Title: Dress-Me-Readi	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed January 4, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 18, 2005, which set a shortened statutory period for reply of three (3) months. In a petition to withdraw the holding of abandonment filed July 17, 2006, applicant contended that she timely filed a response (an amendment) on January 7, 2006. However, the petition was dismissed in a decision mailed on January 1, 2006. Applicant did not demonstrate that she had

filed a proper response to the October 18, 2005 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* places the application in condition for allowance; (2) a Notice of Appeal; (3) a Request for Continued Examination, or (4) a continuing application.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the October 18, 2005 final Office action. As set forth above, a proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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5630 VERNON ROAD
JACKSONVILLE FL 32209-2246

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Ellen Lelita Thomas	:	
Application No. 10/886,028	:	ON PETITION
Filed: July 7, 2004	:	
Title: Dress-Me-Readi	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed April 19, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 18, 2005, which set a shortened statutory period for reply of three (3) months. In a petition to withdraw the holding of abandonment filed July 17, 2006, applicant contended that she timely filed a response (an amendment) on January 7, 2006. However, the petition was dismissed in a decision mailed on January 1, 2006. Applicant did not demonstrate that she had filed a proper response to the October 18, 2005 final Office action. Applicant filed a petition to revive under 37 CFR 1.137(b) on January 4, 2007. However, the petition was dismissed in a decision mailed on March 5, 2007.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has submitted an Amendment; however, the amendment does not *prima facie* place the application in condition for allowance. As set forth above, a proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

Accordingly, on renewed petition, applicant must submit either (1) a Notice of Appeal (and required fee); (2) a Request for Continued Examination (and required fee); or (3) a continuing application.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ELLEN LELITA
5630 VERNON ROAD
JACKSONVILLE FL 32209-2246

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Ellen Lelita Thomas	:	
Application No. 10/886,028	:	
Filed: July 7, 2004	:	
Title: Dress-Me-Readi	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed July 31, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 18, 2005, which set a shortened statutory period for reply of three (3) months. In a petition to withdraw the holding of abandonment filed July 17, 2006, applicant contended that she timely filed a response (an amendment) on January 7, 2006. However, the petition was dismissed in a decision mailed on January 1, 2006. Applicant did not demonstrate that she had filed a proper response to the October 18, 2005 final Office action. Applicant filed a petition to revive under 37 CFR 1.137(b) on January 4, 2007. However, the petition was dismissed in a decision mailed on March 5, 2007. Applicant filed a renewed petition on April 19, 2007. However, the petition was dismissed

in a decision mailed on May 23, 2007. The decision pointed out that the amendment submitted with the petition failed to *prima facie* (i.e. on its face) place the application in condition for allowance.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has submitted an Amendment; however, once again the amendment does not *prima facie* place the application in condition for allowance.

Accordingly, on renewed petition, applicant must submit either (1) a Notice of Appeal (and required fee); (2) a Request for Continued Examination (and required fee); or (3) a continuing application.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Michele M. Simkin
Foley & Lardner, LLP
Washington Harbour
3000 K Street, N.W.
Suite 500
Washington, DC 20007-5143

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Maurizio Francesco Perroni et al.	:	
Application No. 10/886,033	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. 03PA11153445	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 26, 2008.

The request is **APPROVED**.

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

The request was signed by Michele M. Simkin on behalf of all attorneys/agents associated with customer number 22428. All attorneys/agents associated with customer number 22428 have been withdrawn.

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

The correspondence address has been changed that that of the first signing inventor. The new address is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stephen W. Scherer
60 Mayfield Avenue
Toronto, Ontario
Canada M6S 1K5

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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
10/886,033	07/08/2004	Stephen W. Scherer	086671-0120

CONFIRMATION NO. 8594

POWER OF ATTORNEY NOTICE

OC000000032862343

Michele M. Simkin
FOLEY & LARDNER LLP
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5143

Date Mailed: 10/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/26/2008.

- 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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NEW YORK NY 10022

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of
Christopher P. MARSHALL
Application No. 10/886,037
Filed: July 6, 2004
Attorney Docket No. 289550.124-US2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2008.

The request is **APPROVED**.

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

The request was signed by Jane M. Love, on behalf of the attorneys of record associated with Customer No. 28089.

The attorneys of record associated with Customer No. 28089 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER P. MARSHALL
20-A 7TH AVENUE, #6
BROOKLYN, NY 11217

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 17 2005

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Stephen Grimes et al	:
Serial No.: 10/886,038	: PETITION DECISION
Filed: July 6, 2004	:
Attorney Docket No.: 1102865-0047	:

This is a response to the petition under 37 CFR 1.59(b), filed April 8, 2005, to expunge information from the above identified application.

Petitioner requests that a page of inadvertently submitted confidential material be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

Applicants filed a request for corrected filing receipt on March 17, 2005, by facsimile showing what errors needed to be corrected. Included as the last page of the submission is a page of material unrelated to the correction of the filing receipt and unrelated to the prosecution of this application. Applicants state that this information is confidential and was inadvertently submitted and request its return. Due to Office processing of documents received in which they are converted to images unless clearly marked as confidential materials not to be scanned, the document page in question has been imaged. However, the image has been closed to access by the public or any other persons other than authorized Office personnel. As such the document is considered to be expunged from the record. The original will not be returned to applicants.

The petition to is **GRANTED.**

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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SIDLEY AUSTIN BROWN & WOOD LLP
1501 K STREET, N.W.
WASHINGTON DC 20005

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SEP 14 2006
OFFICE OF PETITIONS

In re Application of
Dan L. Eaton et al.
Application No. 10/886,040
Filed: July 8, 2004
Attorney Docket No. 22338-504

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 21 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

This application is being forwarded to Technology Center Art Unit 1646 for appropriate action on the amendment submitted April 21, 2006, including consideration by the examiner of the claims under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2), 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/886,040	07/08/2004	1646	1840	22338-504	16	34	11

CONFIRMATION NO. 8768

SIDLEY AUSTIN BROWN & WOOD LLP
1501 K STREET, N.W.
WASHINGTON, DC 20005

CORRECTED FILING RECEIPT

OC000000020379146

Date Mailed: 09/11/2006

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)

Dan L. Eaton, San Rafael, CA;
Maria Teresa Pisabarro, Dresden, GERMANY;
Kerstin N. Schmidt, San Francisco, CA;
Richard Vandlen, Hillsborough, CA;
Nancy Chiang, San Francisco, CA;
Lauri Diehl, Los Altos, CA;

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/795,503 03/09/2004
which is a DIV of 10/015,967 12/07/2001
which is a CIP of 09/941,992 08/28/2001
which is a CON of PCT/US00/08439 03/30/2000
and is a CIP of PCT/US01/06520 02/28/2001
which is a CIP of 09/709,238 11/08/2000 ABN
which is a CIP of PCT/US00/23328 08/24/2000
and is a CON of PCT/US99/12252 06/02/1999
which claims benefit of 60/090,696 06/25/1998

Foreign Applications

If Required, Foreign Filing License Granted: 09/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/886,040

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Interleukin-8 homologous polypeptides and therapeutic uses thereof

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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

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

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

NOT GRANTED

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

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SIDLEY AUSTIN, LLP
1501 K STREET, NW
WASHINGTON, DC. 20005

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APR 23 2008

OFFICE OF PETITIONS

Applicant: Eaton, et al.
Appl. No.: 10/886,040
Filing Date: July 8, 2004
Title: INTERLEUKIN-8-HOMOLOGOUS POLYPETIDES AND THERAPEUTIC USES THEREOF
Attorney Docket No.: 22338-504
Pub. No.: 2007/0003545 A9
Pub. Date: January 4, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 2, 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 in the specification wherein Table 1 contained on pages 40-57 of the specification as filed is 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 or revised patent application publication other than 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 the omission of Table from the publication is not a material Office error under 37 CFR 1.221. The table was not printed correctly due to the quality of the text. The error noted by requestor in the Table 1 in this published application is due to the quality of the text, as the text is very small. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast

[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).

to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office 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 any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 27 2005

OFFICE OF PETITIONS

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

In re Application of Hirakawa et al. Application No. 10/886,047 Filed: July 8, 2004 Attorney Docket No. 030712-43 Title: Duplexer	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 23, 2004, under 37 CFR. §1.47(a).

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

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

The above-identified application was filed on July 8, 2004, without an executed oath or declaration. Accordingly, on August 23, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 23, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, a statement of facts by Yokoyama and a partially executed declaration. To make the reply timely, a two (2) month extension of time was also submitted.

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

As to item (1), where an inventor cannot be located/reached as in the case of inventors Hirakawa and Fujita, rule 47 applicant must demonstrate diligent effort was made to find or reach the non-signing inventors. See MPEP 409.03(d). The statements made in the petition and statement of facts do not illustrate "diligent effort" was made to locate the non-signing inventors. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. Petitioner should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventors. If inventors Hirakawa and Fujita are located a copy of the application papers (specification, including claims, drawings, and oath or declaration) should be mailed to each inventor's mailing address.

Further, if the inventors are located and they refuse to execute the application papers, rule 47 applicant will need to provide the mailing addresses in a newly executed declaration or in an application data sheet pursuant to 37 CFR 1.76.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of Akio Hirakawa, Yoshiaki Fujita and Tomokazu Komokazu Application No.10/886,047 Filed: July 8, 2004 Attorney Docket Number: 030712-43 Title of Invention: Duplexer	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 27, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors can not be reached or located and diligent effort has been used to locate the inventors. The efforts outlined by rule 47 applicant demonstrate diligent effort was used to attempt to locate non-signing inventors Hirakawa and Fujita.

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.

Deposit account 19-2380 will be credited with the $130.00 petition fee charged on renewed petition. A new petition fee is not required.

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

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Akio Hirakawa
RECT #0609
1-2-8- Katsube,
Moriyama-shi, Shiga
Japan

Akio Hirakawa
c/o OKI Electric Industry Co. Ltd.
7-12 Toranomon 1-chrome
Minato-Ku, Tokoyo
Japan

In re Application of
Akio Hirakawa, Yoshiaki Fujita and Tomokazu Komokazu
Application No.10/886,047
Filed: July 8, 2004
Attorney Docket Number: 030712-43
Title of Invention: Duplexer

LETTER

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

Dear Mr. Hirakawa :

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128
Attn: Donald Studebaker

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Yoshiaki Fujita
Grandoll NOSU # 208
187-5 Kunobe,
NOSU-cho, Shiga
Japan

Yoshiaki Fujita
c/o OKI Electric Industry Co. Ltd.
7-12 Toranomon 1-chrome
Minato-Ku, Tokoyo
Japan

In re Application of
Akio Hirakawa, Yoshiaki Fujita and Tomokazu Komokazu
Application No.10/886,047
Filed: July 8, 2004
Attorney Docket Number: 030712-43
Title of Invention: Duplexer

LETTER

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

Dear Mr. Fujita :

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128
Attn: Donald Studebaker

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Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE, CT 06468

Mail Date: 04/20/2010

Applicant	: Christoph Rothweiler	: DECISION ON REQUEST FOR
Patent Number	: 7615002	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,058	: 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 **1526** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CREW, LLP
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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,629,958	:	
Nicolet et al.	:	DECISION ON REQUEST
Issue Date: 12/08/2009	:	FOR RECONSIDERATION OF
Application No. 10/886064	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/06/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
09623C-045110US	:	CERTIFICAE OF CORRECTION

This is a decision on the petition filed on December 14, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred twenty-seven (1427) 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 twenty-seven (1427) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on July 7, 2007 and ends on April 15, 2008, the day before the RCE was filed, and is 284 days not 886 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 826[1], not 1427 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,**

[1] The "A" delay period ends on July 6, 2007 and the "B" delay period begins on July 7, 2007. As such, there is no overlap between the "A" and "B" periods.

whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred twenty-six (826)** days.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,586,475 B2

DATED : **September 8 2009**

INVENTOR(S) : Lee et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 542 days.

Delete the phrase "by 542 days" and insert – by 826 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB - 8 2005

Keith E. Kenyon,M.D.
14435 Hamlin Street, Suite C
Van Nuys, CA 91401-6205

In re Application of Keith E. Kenyon

Serial No.: 10/886,070 : PETITION TO MAKE SPECIAL
Filed: July 7, 2004 :
Attorney Docket No.: DKK 9162

This is in response to applicant's petition filed on February 25, 2005, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

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 by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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O'MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT
LA-13-A7
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
William D. SUVAL	:	
Application No. 10/886,072	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 845642-3		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 14, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by Customer Number 23879, as indicated.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WILLIAM D. SUVAL
P.O. BOX 427
APPLE VALLEY, CA 90071

UNITED STATES PATENT AND TRADEMARK OFFICE

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

O'MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT LA-13-A7
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

COPY MAILED

AUG 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
William D. SUVAL	:	
Application No. 10/886,072	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 845642-3	:	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 22, 2009.

The request is **APPROVED**.

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

The request was signed by Brian M. Berliner on behalf of all attorneys of record.

All attorneys of record have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified by the applicant.

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

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: WILLIAM D. SUVAL
P.O. BOX 427
APPLE VALLEY, CA 92307

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/886,072	07/06/2004	William D. Suval	845642-3

CONFIRMATION NO. 8434

POWER OF ATTORNEY NOTICE

23879
O"Melveny & Myers LLP
IP&T Calendar Department LA-13-A7
400 South Hope Street
Los Angeles, CA 90071-2899

OC000000037196801

Date Mailed: 08/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/22/2009.

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

/dcgoodwyn/

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

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

MAILED

MAY 12 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Theytaz, et al.
Application No. 10/886,081
Filed: July 6, 2004
For: AN OPTICAL DISPLACEMENT MOBILE AND METHOD TO REDUCE THE SIZE OF AN OPTICAL POINTING DEVICE THEREOF

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on September 7, 2004.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 20350 have been withdrawn.

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

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

cc: Rajiv P. Patel
Fenwick & West LLP
801 California Street
Mountain View, CA 94041

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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

COPY MAILED

AUG 03 2007

OFFICE OF PETITIONS

In re Application of :

BERLIN, et al. :
Application No. 10/886,094 : DECISION ON PETITION
Filed: July 7, 2004 : TO WITHDRAW
Attorney Docket No. **21058/12064661-US1** : 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 23, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on June 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY PC**
PO BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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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ROBERT RYAN MORISHITA
MORISHITA LAW FIRM LLC
3800 HOWARD HUGHES PKWY
SUITE 850
LAS VEGAS NV 89109

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Cheng, et al.	:	
Application No. 10/886,104	:	ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. WAGER04-06	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2006, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 11, 2006. This Office action set a shortened statutory period for reply of one month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 12, 2006. 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 a response to restriction requirement, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3713 for consideration of the response to restriction requirement, filed June 20, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

COPY MAILED
JUL 2 8 2008

In re Application of Chiang et al.	:	
Application No. 10/886,107	:	Decision on Petition
Filing Date: July 6, 2004	:	
Attorney Docket No. US4531	:	

This is a decision on the petition under 37 CFR 1.181 filed April 14, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed August 10, 2007.

The Office action was returned to the Office undelivered by the USPS. The reason the Office action was returned was unclear.

The Office did not receive a reply to the non-final Office action. As a result, a Notice of Abandonment was mailed February 21, 2008.

Petitioner requests withdrawal of the holding of abandonment based on non-receipt of the Office action. The record fails to include any evidence demonstrating the mail was returned by the USPS as a result of an error by petitioner. For example, the instant situation does not involve petitioner failing to keep the Office informed of a current mailing address. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2622 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JAN 03 2008

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of :
Mouli :
Application No. 10/886,125 : DECISION ON PETITION
Filed: July 8, 2004 :
Docket No.: 042390.P18998 :

This is a decision on the petition under 37 CFR 1.181, filed September 17, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed September 13, 2006. The Office communication set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed July 2, 2007.

Petitioners assert non-receipt of the Office communication as a consequence of the Office communication being improperly mailed to the wrong correspondence address.

A review of the application history supports a finding the correspondence address for the instant application was errantly changed on or about March 22, 2006. As a result, the Office communication dated September 13, 2006 was mailed to the wrong correspondence address, as argued by applicant.

In view thereof, the evidence presented support the conclusion that the Office communication dated September 13, 2006 was not received by applicant because it was mailed to the wrong correspondence address.

The correspondence address and power of attorney data have been corrected.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for re-mailing of the Office communication. The time period for reply will be set in the re-mailed Office communication.

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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P.O. Box 1450
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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Patent No. 7261913 :
Issue Date: August 28, 2007 :
Application No. 10/886,151 : ON PETITION
Filed: July 6, 2004 :
Attorney Docket No. 88265-8140 :

This is a decision on the petition filed December 17, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

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OFFICE OF PETITIONS

In re Application of :
L. Alma Jessop et al :
Application No. 10/886,158 : DECISION ON PETITION
Filed: July 7, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 3765.CFS.NP :

This is a decision on the petition, filed August 24, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

The petition indicates that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 19, 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. Accordingly, the request to rescind the nonpublication request must have been filed no later than January 3, 2005.

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. The date of abandonment of this application is January 4, 2005.

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.

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 (over two years) in notifying the Office of the November 19, 2004, foreign filing, 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 notify the Office of the foreign filing to avoid abandonment was unintentional. Accordingly, any renewed petition must clearly set forth the party responsible for informing the Office of the foreign filing, what efforts were made (or not made) by this party to notify the Office of the foreign filing, and why this delay should be considered unintentional. If no effort was made to notify the Office of the foreign filing, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Copies of any correspondence relating to the filing, or to not filing, the notification to rescind the nonpublication request are required from all persons having knowledge of the delay at issue here. 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 clear that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons 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).

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

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OFFICE OF PETITIONS

In re Patent No. 7,290,749	:	
Issue Date: November 6, 2007	:	
Application No. 10/886,158	:	DECISION GRANTING PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3765.CFS.NP	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 7, 2007, to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 19, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petitions now satisfy the requirements for revival under 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,290,749 on November 6, 2007. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Lynn et al.	:	
Application No. 10/886,161	:	DECISION ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. 960296.00570	:	

This is a decision on the petition, filed February 2, 2010, 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 Allowance mailed September 4, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on December 30, 2009.

Petitioner asserts that the Notice of Allowance dated September 4, 2009 was not received. Petitioner contends that the Notice of Allowance was not received because a change of correspondence address was not entered as such the Notice was mailed to the wrong address.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance of September 4, 2009. In this regard, the Office received a change of address on June 11, 2009, prior to the mailing of the Notice of Allowance of September 4, 2009. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1796 for re-mailing the Notice of Allowance and Notice of Allowability of September 4, 2009 and resetting the period for reply.

Charlema 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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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/886,161	07/07/2004	David M. Lynn	960296.00570

CONFIRMATION NO. 9111

POA ACCEPTANCE LETTER

23713
GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER, CO 80301

OC000000041754100

Date Mailed: 05/24/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

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.

/crgrant/

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
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
10/886,161	07/07/2004	David M. Lynn	960296.00570

CONFIRMATION NO. 9111

POWER OF ATTORNEY NOTICE

27114
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

OC000000041754093

Date Mailed: 05/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

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

/crgrant/

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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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Robin D. Katzer	: DECISION ON REQUEST FOR
Patent Number	: 7613805	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

KEELY SCHNEITER
399 NORTH MAIN, SUITE 300
LOGAN UT 84321

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Edward E. DURRANT	:	
Application No. 10/886,196	:	DECISION ON PETITION
Filed: July 7, 2004	:	
Docket No. 1021-U01	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final 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) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received May 2, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

05-05-08

DAC

OIPE MAY 02 2008 PATENT & TRADEMARK OFFICE

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) 1021.U01

First named inventor: Edward Durrant

Application No.: 10/886,196 Art Unit: 1751

Filed: July 7, 2004 Examiner: Kumar, Preeti

Title: Carbonated Cleaning Composition

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 an amendment under 37 C.F.R. 1.111 (identify type of reply):

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

05/05/2008 NNGUYEN1 00000036 10886196

B. The issue fee and publication fee (if applicable) of $ 01 FC:1453 1540.00 OP
☐ 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	May 2, 2008 Date
Keely Schneiter Typed or printed name	53,562 Registration Number, if applicable
399 North Main Street, Ste. 300 Address	435/752-9407 Telephone Number
Logan, UT 84321 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.

May 2, 2008 Date	Signature
	Kendal Schneiter 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
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OFFICE OF THE DIRECTOR
TC 3600

ALVN S. BLUM
2350 DELMAR PLACE
FORT LAUDERDALE, FL 33301

In re application of Alvin S. Blum Application No. 10/886,199 Filed: July 7, 2004 For: MAGNETIC LOCKING TONGS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 7, 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 Alvin S. Blum 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**.

for

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

SNM/dcg: 9/8/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 38100
ST. LOUIS MO 63138

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Nichols et al.	:	
Application No. 10/886222	:	DECISION
Filing or 371(c) Date: 07/07/2004	:	ON PETITION
Attorney Docket Number KEM0001-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 22, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 23, 2006. A Notice of Abandonment was mailed July 26, 2006.

The present petition

Applicant files the present petition and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

Applicable Law, Rules and MPEP

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), additional information is required. The MPEP provides:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; and (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
> (A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
> In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

The MPEP also notes:

- Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a

deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:
(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.
Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Analysis

Here, Applicant states that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional;" however, Applicant has not provided either: (A) the date that the applicant first became aware of the abandonment of the Application, or (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

Further to this, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the

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

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant, and that the abandonment of the application was unintentional.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ST. LOUIS MO 63138

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of
Nichols et al.
Application No. 10/886222
Filing or 371(c) Date: 07/07/2004
Attorney Docket Number KEM0001-201-US

DECISION
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 22, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 23, 2006. A Notice of Abandonment was mailed July 26, 2006.

The present petition

Applicant files the present petition and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

Applicable Law, Rules and MPEP

A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (3), additional information is required. The MPEP provides:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; and (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
> (A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(b) in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:
> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.
> In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

The MPEP also notes:

- Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a

deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:
(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.
Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Analysis

Here, Applicant states that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional;" however, Applicant has not provided either: (A) the date that the applicant first became aware of the abandonment of the Application, or (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

Further to this, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the

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

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant, and that the abandonment of the application was unintentional.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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APR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Nichols et al.	:	
Application No. 10/886222	:	DECISION
Filing or 371(c) Date: 07/07/2004	:	ON PETITION
Attorney Docket Number KEM0001-201-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2009, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed December 22, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 23, 2006. A Notice of Abandonment was mailed July 26, 2006.

The May 14, 2009 petition

Applicant filed a petition to revive the application and an Amendment in response to the Office action on May 14, 2009, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional."

The June 17, 2009 Decision dismissing the petition

The petition was dismissed in a Decision mailed June 17, 2009. The Decision dismissing the petition required (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.

The present renewed petition

Applicant files the present renewed petition and the required showing as to the unintentional delay. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includs (1) the reply in the form of an Amendment; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2875 for processing of the Amendment filed with the petition, and for further examination in the normal course of business.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
McKinney, et al.	:	
Application No. 10/886,231	:	ON PETITION
Filed: July 7, 2004	:	
Docket No. 1247/A77	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative under 37 CFR 1.137(b), filed December 4, 2006.

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed January 26, 2006. This Office action set a shortened period for reply of three (3) month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on April 27, 2006. A Notice of Abandonment was mailed on October 5, 2006.

Petition Under 37 CFR 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted by petitioner is only a prosecution history of actions taken in the instant application. To establish non-receipt of the January 26, 2006 Office action, petitioner would need to submit a copy of a docket report showing all of his replies docketed for the due date of April 26, 2006.

Petition Under 37 CFR 1.137(b):

With the instant petition, petitioner made a statement of unintentional delay, submitted the required reply in the form of an amendment, and included an authorization to charge the petition fee to his deposit account.

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

The $1500 petition fee has been charged to Deposit Account No. 19-4972, as authorized.

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

The matter is being forwarded to Group Art Unit 2185 for consideration of the amendment filed December 4, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/21/2010

Applicant	: Arthur C. McKinney	: DECISION ON REQUEST FOR
Patent Number	: 7584330	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,231	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAY 13 2005

ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

In re Application of	:	
Rehkemper, et al	:	DECISION PETITION
Serial No.: 10/886,235	:	
Filed: July 7, 2004	:	
Title: Electronic Oral Cleaning Device	:	

This is in response to the petition applicant filed on October 22, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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ADAM K. SACHAROFF
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191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

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OFFICE OF PETITIONS

In re Application of	:	
Rehkemper, Steven	:	
Application No. 10/886,235	:	DECISION GRANTING PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4004013.0107	:	

This is a decision on the petition, filed August 11, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 23, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 12, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3732 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JANUARY 24, 2007

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 10886236 Patent No.: 7140099B2

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

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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3729
Art Unit

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BOC, INC.
575 MOUNTAIN AVE.
MURRAY HILLS, NJ 07974-2064

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OFFICE OF PETITIONS

In re Application of	:	
Souvik Banerjee et al	:	
Application No. 10/886,251	:	DECISION ON PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. M03A434/DIV	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed July 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application.

The petition is **DISMISSED AS MOOT.**

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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, no petition is required when the applicant is changing the relationship in a benefit claim from "divisional" to "continuation" because the Office was able to schedule the application for publication with the relationship given. See AIPA 18 Month Publication CX6.

Petitioner is advised that amendment cannot be physically part of the instant petition. See 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This application is being forwarded to the Examiner of Technology Center AU 1746 for appropriate action.

Frances Hicks

Frances Hicks
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of

Chen, et al.

Application No. 10/886,267

Filed: July 6, 2004

Attorney Docket No. 89188.0082

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed September 19, 2007.

The petition is **granted**.

This application was held abandoned October 7, 2006, after no reply was received to the restriction/election requirement mailed September 6, 2006. The notice set forth a shortened period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on October 7, 2006. A Notice of Abandonment was mailed April 9, 2007. The instant petition was filed on September 19, 2007. Petitioner maintains that the notice of September 6, 2006, 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 to Technology Center 1600, GAU 1646 for further processing that may include remailing the restriction/election requirement and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

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OFFICE OF PETITIONS

In re Application of	:	
Victor V. Aromin	:	
Application No. 10/886,269	:	DECISION ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. 81800BCIP3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 12, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 12, 2008. Accordingly, the date of abandonment of this application is December 13, 2008. A Notice of Abandonment was mailed January 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 payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FLYNN, THIEL, BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of	:	
KUHLMAN, et al.	:	
Application No. 10/886,271	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. Pharmacia C-01293	:	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 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 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, "withdrawal requested by the assignee of record" does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Pharmacia & Upjohn**
7000 Portage Road
KZO-300-104
Kalamazoo, MI 49001

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/01/10

TO SPE OF : ART UNIT 2456

SUBJECT : Request for Certificate of Correction for Appl. No.: 10886272 Patent No.: 7580992

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: _____

AU2456

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UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,580,992
Issue Date: August 25, 2009
Application No. 10/886,272
Filed: July 6, 2004
Attorney Docket No. 06005/39994

DECISION ON PETITION

This is a decision on the Request Under 37 C.F.R. §3.81, filed April 14, 2010, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct assignee's residence. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner request that the present Petition was submitted to correct the assignee's residence on the previously submitted PTOL-85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the assignee's residence identified thereon from:

"Marchalltown, IA"

to:

-St. Louis, MO-

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(h) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,580,992.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/886,274	07/02/2004	1744	1022	228525	18	22	4

CONFIRMATION NO. 9200

UPDATED FILING RECEIPT

OC000000014127464

23460
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

Date Mailed: 10/19/2004

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)

Christopher T. Boyer, Oak Park, IL;
Timothy J. Molek, La Grange, IL;
Paul B. Specht, Wilmette, IL;

Assignment For Published Patent Application

Freudenberg Household Products LP, Northlake, IL

Power of Attorney: The patent practitioners associated with Customer Number **23460**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/484,868 07/03/2003

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 US10/886,274

Projected Publication Date: 01/27/2005

Non-Publication Request: No

Early Publication Request: No

Title

Broom, method, and broom display

Preliminary Class

015

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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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 23 2005

In re Application of	:	ap
Ronald R. Manclaw, Nicholas D. Harrison	:	DECISION
Serial No. 10/886,275	:	ON
Filed: July 6, 2006	:	PETITION
For: MANCLAW-HARRISON FUEL CELL	:	

This is in response to the petition filed February 18, 2005, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP.

The petition has been considered and found not to comply with the requirements set forth under the above-noted section. All of the applicants for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 3.71 of this chapter. Accordingly the petition is DENIED.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Nicholas D. Harrison
2915 Creekwood Road
Norfolk VA 23518-2308

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

NICHOLAS D. HARRISON
2915 CREEKWOOD ROAD
NORFOLK, VA 23518-2308

COPY MAILED

SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of
Ronald R. Manclaw et al
Application No. 10/886,275
Filed: July 6, 2004
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed August 5, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section VI: Energy.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP § 708.02, Section VI: Energy must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the inventions materially contribute (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by statements under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. See 37 CFR 1.102(c).

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

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

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

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

By FAX: **(571) 273-8300**

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

The application is being forwarded to the Technology Center Art Unit 1746 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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SEP 2 6 2005

In re Application of	:	
Ronald R. Manclaw, and Nicholas D. Harrison	:	
Serial Number: 10/886,275	:	PETITION
Filed: July 06, 200	:	UNDER
For: MANCLAW-HARRISON FUEL CELL	:	M.P.E.P. 708.02, VI

This is in response to the petition filed September 1, 2005, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(d) (fee paid).

This application was made special in response to a petition filed August 5, 2005. Enclosed is a copy of the granted petition, which was mailed on August 31, 2005.

Accordingly the petition is DISMISSED.

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

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NICHOLAS D. HARRISON
2915 CREEKWOOD ROAD
NORFOLK, VA 23518-2308

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of

Ronald R. Manclaw et al
Application No. 10/886,275
Filed: July 6, 2004
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)(2)

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(ii), filed September 23, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition complies with the conditions required under category A. The applicants stated "This Patent Application is of a FUEL CELL concept, process of making the Electrolyte, and of the device itself, and involves the Scientific Discovery therein of a reaction process between the Aluminum (ANODE) and the Electrolyte (containing "Morton Salt" a table salt containing "Iodine" which is the key ingredient required to make the process work). Accordingly, the above-identified application has been accorded "special" status.

The decisions previously mailed are hereby vacated as of the mail date of this decision.

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

All other inquires 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 1746 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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AUG 1 1 2009

OFFICE OF PETITIONS

Stoneman Volk Patent Group
3770 North 7th Street, Suite 100
Phoenix, AZ 85014

In re Application of	:	
Annette Marino	:	
Application No. 10/886,297	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. P04206	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2009.

The request is **APPROVED**.

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

The request was signed by Michael D. Volk, Jr. on behalf of all attorneys/agents associated with customer number 28548. All attorneys/agents associated with customer number 28548 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Annette Marino
7119 E. Shea Boulevard
Phoenix, AZ 85254

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/886,297	07/06/2004	Annette Marino	P04206

CONFIRMATION NO. 9303

POWER OF ATTORNEY NOTICE

28548
Stoneman Volk Patent Group
3770 NORTH 7TH STREET, Suite 100
PHOENIX, AZ 85014

OC000000037298527

Date Mailed: 08/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2009.

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

/kainabinet/

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

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DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:
Ron Barzilai et al	:
Application No. 10/886,302	: DECISION GRANTING PETITION
Filed: July 6, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SNDK.44US0	:

This is a decision on the petition, filed June 20, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that petitioner herein, Mr. Joseph F. Hetz, was ever given a power of attorney in this application. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Hetz appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Hetz desires to receive future correspondence regarding this file, the proper power of attorney documents must be submitted. In the meantime, a courtesy copy of this decision is being mailed to the address appearing on the petition. Until otherwise properly instructed, all future correspondence in this file will be directed solely to the above-noted address of record.

---

[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.*

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

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Joseph F. Hetz
Brinks Hofer Gilson & Lione
NBC Tower - Suite 3600
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

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AUG 18 2005

OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

In re Application of	:
Brody	: DECISION ON PETITION
Application No. 10/886,303	:
Filed: July 7, 2004	:
Atty. Dkt. No.: 3768P2398cip	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 28, 2004 for failure to timely file a proper response to the Notice to File Corrected Application Papers ("Notice") mailed August 27, 2004. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed May 20, 2005.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 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 Office of Initial Patent Examination 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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Paper No.

WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

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FEB 18 2010

In re Patent Number: 7028504	:	
Issue Date: 04/18/2006	:	
Application Number: 10/886310	:	NOTICE
Filing or 371(c) Date: 07/07/2004	:	
Attorney Docket Number: 084459/00001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on December 11, 2009.

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

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

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

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

D Wood

Douglas Wood
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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SEP 19 2008

In re Application of	:	
Phillip T. Moen, Jr., et al.	:	
Application No. 10/886,315	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. 019168-000710US	:	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 9, 2008.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Phillip T. Moen, Jr. at the address indicated below.

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: **Phillip T. Moen, Jr.**
114 Granite Street
Foxboro, MA 02035

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/886,315	07/07/2004	Phillip T. Moen JR.	019168-000710US

CONFIRMATION NO. 8806

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000032169183

Date Mailed: 09/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2008.

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

/tswilliams/

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

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Philip MOEN et. al.	:	
Application No. 10/886,315	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. 4373 1000-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 17, 2009, 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 above-identified application became abandoned on November 18, 2009.

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 Notice of Appeal (appeal fee required by 37 CFR 41.20(b)(2)); (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of August 17, 2009 is accepted as having been unintentionally delayed.

Applicant is given a two-month time period from the mailing date of this decision to file an appeal brief (37 CFR 41.37(a)). This period is extendable under 37 CFR 1.136(a).

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3219.

Application No. 10/886,315

Technology Center AU 1637 has been advised of this decision. The application is, thereby, referred to Technology Center AU 1637 to await applicant's filing of an appeal brief or other appropriate action.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Doyle B. Johnson
REED SMITH LLP
Two Embarcadero Center, Suite 2000
P.O. Box 7936
San Francisco, CA 94111

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of
LOOSE, Markus
Application No.: 10/886,319
Filing Date: July 7, 2004
Docket No.: 354096.01500
For: COLUMN AMPLIFIER WITH AUTOMATIC GAIN SELECTION FOR CMOS IMAGE SENSORS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on June 2, 2005. The petition under 1.137(b) is hereby **GRANTED**.

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

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted a declaration in compliance with 37 CFR 1.63, the surcharge fee of $65.00, the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the Office of Initial Patent Examination for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

Brian Hearn
Petitions Examiner
Office of Petitions

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55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Huang, Lan	:	
Application No. 10/886,334	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. Long Range Int'l	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 13, 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 14, 2004. A Notice of Abandonment was mailed on June 13, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). The Office acknowledges receipt of the oath or declaration with the instant petition. However, the Notice also required additional claims fee totaling $1032.00. The fees have increased since the Notice was initially mailed and the amount of the fees is determined when paid in full. Accordingly, the additional claims fee required now is $2400.00.

Accordingly, petitioner must submit the fees to revive the above-identified application.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] See MPEP 711.03(c)(III)(C) and (D).

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MORRISTOWN NJ 07960-7397

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OCT 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Huang, Lan	:	
Application No. 10/886,334	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. Long Range Int'l	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the oath/declaration and requisite 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON & TERRILE, LLP – AMD
P.O. BOX 203518
AUSTIN TX 78720

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OFFICE OF PETITIONS

In re Application of	:	
Lim et al.	:	
Application No. 10/886,350	:	DECISION ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. TT5621	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 10, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 10, 2008. Accordingly, the date of abandonment of this application is December 11, 2008. A Notice of Abandonment was mailed January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert Samuel Smith
1263 Emory St.
San Jose CA 95126

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OFFICE OF PETITIONS

In re Application of
Steven Goldstein
Application No. 10/886,353
Filed: July 6, 2004
Attorney Docket Number: RSSGZ
Title of Invention: Tool And Method for Adjusting A Door Hinge

ON PETITION

This is a decision on the petition filed June 27, 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 September 26, 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 December 27, 2005. A Notice of Abandonment was mailed on February 10, 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

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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

BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ
SIX CONCOURSE PARKWAY, SUITE 3100
ATLANTA, GA 30328

In re Application of	:	
Dale Hunt Nichols, Sr.	:	
Application No. 10/886,355	:	DECISION ON PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2825322-000008	:	

This is a decision on the petition, filed July 11, 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 months publication country on April 14, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be mailed in a separate correspondence.

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

This matter is being referred to Technology Center AU 2612 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Ofir Zohar	: DECISION ON REQUEST FOR
Patent Number	: 7603580	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SMITH & HOPEN, PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER, FL 33760

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OFFICE OF PETITIONS

In re Application of :
Venkat R. Bhethanabotla, et. al. :
Application No. 10/886,386 : ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. 1372.169.PRC :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 2, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on June 16, 2005. A Notice of Abandonment was mailed November 7, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST STREET
NEW YORK. NY 10017-6702

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OFFICE OF PETITIONS

In re Application of
Andy Iott et al.
Application No. 10/886,392
Filed: July 6, 2004
Attorney Docket No. 008932-772-999

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 18, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on July 6, 2004 naming Andy Iott, Larry Binder Brian Dec and Kelly Baker as joint inventors, but without a without a signed declaration.
Accordingly, on July 18, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition is filed under 37 CFR 1.47(a), with a one month extension of time request. The petition is filed with a copy of the oath or declaration executed by inventor Brian Dec and with an explanation that while the application papers were mailed to joint inventors Iott, Binder and Baker, the correspondence was returned as not deliverable to Iott and Binder. Further, the petition argues that while joint inventor Baker accepted delivery of the correspondence, he has failed to return an executed copy of same.

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

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

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

(3) the petition fee; and

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

The present petition lacks items (1). The proof presented does not support a claim that non-signing inventors Iott and Binder refuse to execute the oath or declaration.

Petitioners claim that because the correspondences mailed to joint inventors Iott and Binder were returned that they are thus refusing to execute the oath and declaration and to cooperate with the filing of the application. Petitioners have not established that Mr. Iott and Mr. Binder live at the addresses to which the packages were mailed. In fact, the undersigned performed an internet search and found a different address for Mr. Iott, other than that provided by petitioners.

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventors,[1] and must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Iott and Mr. Binder such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate them, send or give a copy of the application papers to them, and request that they sign and return the declaration. If repeated attempts to contact the non-signing inventors (Iott and Binder) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that they cannot be found despite diligent efforts.

If the non-signing inventors refuse in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, if it is found that the non-signing inventors are residing at a different address than that listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

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

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

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

Telephone inquiries 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

---

[1] MPEP 409.03(d).

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222 EAST 41ST STREET
NEW YORK. NY 10017-6702

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OFFICE OF PETITIONS

In re Application of
Andy Iott et al.
Application No. 10/886,392
Filed: July 6, 2004
Attorney Docket No. 008932-772-999

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

This is in response to the request for reconsideration filed February 22, 2006, under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 6, 2004 naming Andy Iott, Larry Binder, Brian Dec and Kelly Baker as joint inventors, but without a without a signed declaration. Accordingly, on July 18, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. A petition filed October 18, 2005 was dismissed in a decision mailed November 22, 2005 because the proof presented did not support a claim that non-signing inventors Iott and Binder refused to execute the oath or declaration..

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

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

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

(3) the petition fee; and

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

In response to the decision dismissing the petition filed October 18, 2005, the instant petition with a one month extension of time request shows that diligent efforts have been employed to determine Mr. Iott and Mr. Binder's addresses, and that they have attempted to contact them at their respective addresses, only to have them not return executed copies of the oath or declaration and thus to cooperate with the filing of the instant application. It was already established that Mr. Baker had received the application papers but just like Mr. Iott and Mr. Binder, he has not returned an executed copy of the oath or declaration.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule

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

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Attilio E. Difiore, et al.	:	
Application No. 10/886,403	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 1016720004P4	:	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 9, 2008.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rutan & Tucker, LLP**
611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

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DORSEY & WHITNEY LLP
555 CALIFORNIA STREET,
SUITE 1000
SAN FRANCISCO, CA 94104

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OFFICE OF PETITIONS

In re Application of	:	
Gary Blackburn	:	DECISION ON PETITION
Application No. 10/886,408	:	
Filed: July 7, 2004	:	
Atty Docket No. A-70517-1	:	

This is a decision on the PETITION TO CORRECT FILING DATE UNDER 37 CFR §1.10 filed February 3, 2006, requesting that the above-identified application be accorded a filing date of July 6, 2004, rather than the presently accorded filing date of July 7, 2004.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on July 6, 2004, pursuant to the requirements of 37 C.F.R. § 1.10; however, the USPTO failed to accord the application a filing date as of the "date-in" or deposit date with the USPS. Petitioner states that a true copy of Express Mail label no. ER 204924868 US bearing the official stamp of the USPS dated July 6, 2004 is enclosed along with a true copy of the application transmittal showing the Express Mail label number as entered thereon prior to the mailing of the papers by Express Mail. However, neither of these supporting papers (the Express Mail label or copy of transmittal) are among the papers of record in the application. Only the 2-page petition is present for review.

The instant petition does not include a showing that it was filed promptly after applicant became aware that the application would be accorded a filing date of July 7, 2004.

Moreover, as previously stated, the petition did not include a copy of the application transmittal as asserted. In addition, a review of the application transmittal received on filing of this application reveals that it included an Express Mail mailing label number different from that asserted by petitioner.

Furthermore, as previously stated, the petition did not include a copy of the Express Mail mailing label. In addition, even if the label denoted was supplied, the number provided is not consistent with that shown on the application transmittal of record. Thus, applicant would not thereby show that that Express Mail mailing label number was placed on the correspondence prior to mailing. Finally, the USPS records did not corroborate petitioner's claim of deposit on July 6, 2004 under that Express Mail mailing label number. The USPS Track and Confirm Record as shown at www.usps.gov shows that the Express Mail mailing label number referenced by petitioner was accepted by the USPS on July 7, 2004. This evidence supports a conclusion that any application deposited under that Express Mail mailing label number is entitled to a filing date, if any, of July 7, 2004 (not July 6, 2004).

As to the record for the Express Mail mailing label number shown on the application transmittal of record, such a record was not available at www.usps.gov. Petitioner has neither asserted nor shown that that the Express Mail mailing under that number was deposited on July 6, 2004.

In view thereof, the petition must be **DISMISSED**. The application will retain a filing date of July 7, 2004.

No petition fee is required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,531,007 B2
Ser. No. : 10/886,420
Inventor(s) : Sharma
Issued : May 12, 2009
Title : SECURITY APPARATUS USING A TELECOMMUNICATION DEVICE
Docket No. : VTA04-1 (N1272-3100)

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1575

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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K & L GATES LLP
IP DOCKETING
630 HANSEN WAY
PALO ALTO CA 94304

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AUG 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,531,007	:	
Issue Date: May 12, 2009	:	
Application No. 10/886,420	:	ON PETITION
Filed: July 6, 2004	:	
Attorney Docket No. VTA04-1(N1272-3100)	:	

This is a decision on the communication filed June 26, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of
Shahriar Emami et al.
Application No. 10/886,479
Filed: July 7, 2004
Attorney Docket No. **CML01184U**

ON PETITION

This is a decision on the petition filed April 27, 2007 under 37 CFR 1.182 to correct the spelling of the inventor's name.

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner requests that the inventor's first name be corrected from "Shahrian" to "Shahriar" and provides a supplemental oath or declaration to reflect the correct spelling of the inventor's name. Although no declaration by the inventor explaining that the error was without deceptive intent has been provided, it appears that based on the nature of the error that perhaps a harmless typographical error has been committed. Petitioner's deposit account no. 50-2117 ha s been charged in the amount of $400.00 for the petition under 37 CFR 1.182.

This matter is being referred to Technology Center 2617 for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Shahriar Emami et al.
Application No. 10/886,479
Filed: July 7, 2004
Attorney Docket No. **CML01184U**

ON PETITION

This is a decision on the petition filed April 27, 2007 under 37 CFR 1.182 to correct the spelling of the inventor's name.

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner requests that the inventor's first name be corrected from "Shahrian" to "Shahriar" and provides a supplemental oath or declaration to reflect the correct spelling of the inventor's name. Although no declaration by the inventor explaining that the error was without deceptive intent has been provided, it appears that based on the nature of the error that perhaps a harmless typographical error has been committed. Petitioner's deposit account no. 50-2117 ha s been charged in the amount of $400.00 for the petition under 37 CFR 1.182.

This matter is being referred to Technology Center 2617 for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

COPY MAILED

OCT 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Xitong LI, et al	:	
Application No. 10/886,501	:	DECISION ON PETITION
Filed: July 6, 2004	:	TO WITHDRAW
Attorney Docket No. 39740-0018	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2008.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP, has been revoked by the assignee of the patent application on September 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: XITONG LI
278 BONNY STREET
MOUNTAIN VIEW CA 94043

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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

Russell D. Orkin
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Masaichi Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7618950	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 Kinross Lakes Parkway
Suite 275
RICHFIELD OH 44286

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven Tsengas	:	
Application No. 10/886,544	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 1121A	:	

This is a decision on the petition, filed February 21, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the final Office action mailed December 14, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 2, 2007.

Petitioner asserts that the Office action dated July 2, 2007 was mailed to an incorrect address.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

It is noted that the Office action dated July 2, 2007 was a Notice of Abandonment resulting from a lack of a proper and timely response to the Final Office Action mailed December 14, 2006. The records at the Office indicate that the Office action of July 2, 2007 to have been mailed to the address given in the Change of Address Request filed March 23, 2007. Furthermore, as noted above, the Office action dated July 2, 2007 was a Notice of Abandonment and 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).

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 petition fee ($1540 for a Large Entity). It is noted that the applicant has been charged $750 as authorized in the petition. Should the applicant not elect to file a petition for revival under 37 CFR 1.137(b), the applicant may wish to request a refund of the $750 fee. However, if the applicant wishes to file a petition under 37 CFR 1.137(b), the unpaid balance in the petition fee ($20 in this instance) should be included with such a petition.

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

CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

CC: John D. Gugliotta
6100 Oak Tree Boulevard,
Suite 200
Independence, OH 44131

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

Best Available Copy

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MAR 2 3 2007

Docket No 1121A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dr. Steven Tsengas
Title: Improved Cat Litter
Serial No.: 10/886544
Filed: 7/9/2004

Patent No.:
Issued

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to 571-273-8300 on March 23, 2007.

X _____
Name: John D. Gugliotta

CHANGE OF CORREPSONDENCE ADDRESS FOR PENDING / ISSUED PATENT APPLICATION

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

Sir:

Please change the Correspondence Address for the above-identified patent application to

The attorneys associated with USPTO Customer No. 33055
John D. Gugliotta, P.E., Esq., Registration Number 36538
430 White Pond Drive
Suite 200
Akron, OH 44320-1122

I am the Attorney of Record in this application.

Respectfully submitted

John D. Gugliotta, P.E., Esq.
Registration Number 36538

BEST AVAILABLE COPY

Applicant requests that the abandoned application is revived on the grounds set forth in the decision dated October 1, 2007 in that the failure to pay a petition fee of $750.00 pursuant to **37 CFR § 1.17(m)** . This fee is included with this reply.

Further, applicant request refund of this fee due to the fact that the original Action dated 07/02//2007 was mailed to the incorrect address. A request was made to associated Customer No. 33055 with the new, current address. For reasons unknown, but what is thought to be due to the fact that this record was not previously associated with Customer No. 33055 in the private PAIR system, this was not timely updated. Only as a result of the May 26, 2007 request was this record associated with Customer No. 33055 as was originally requested in the original filing documents.

Therefore, the address was not timely updated in PAIR prior to transmittal of the 01/31/2007 Action.

Applicant wishes this petition be granted and fee refunded. Should additional input be required, please telephone the counsel of record listed below.

Respectfully submitted,

John D. Gugliotta, P.E., Esq.
Registration No. 36,538
6100 Oak Tree Boulevard
Suite 200
Independence, OH 44131
Ph: (330) 253-2225
Facsimile (330) 253-6658

OIPE IAP78
FEB 21 2008
PATENT & TRADEMARK OFFICE

1 Fwd DAC

Utility Patent
Ser. No. 10/8866,545

BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Steven Tsengas	)	Date: February 15, 2008
Serial No: 10/886,544	)	Group Art Unit: 1615
Filed: 07/09/2004	)	Examiner: Humera N. Sheikh
Title: **Improved Cat Litter**	)	

Certificate of Mailing

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: Assistant Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on ___ 2-18-08 (date). Typed or printed name of person signing this certificate.

TERRY LAKOS

Signature Terry Lakos

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. **(571) 273- 8300** on

_____ (date).

Printed name of person signing this certificate

_____

Signature _____

Mail Stop: Petition
Office of the Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE APPLICATION UNDER 37 CFR 1.137

Dear Examiner:

02/22/2008 CCHAU1 00000003 10886544
01 FC:1999 750.00 OP

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10886544 Total Records Found: 5

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/22/2008	00000004	1	1999	$750.00	02/21/2008	CK
11/13/2007	00000001	1	2402 APB	$255.00	11/08/2007	CK
07/19/2007	00000033	1	2401 MAP	$250.00	07/17/2007	CK
03/17/2006	00000003	1	2814	$65.00	03/13/2006	DA 072380
07/13/2004	00000145	1	2001	$385.00	07/09/2004	CK

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD OH 44286

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven TSENGAS et al.	:	
Application No. 10/886,544	:	DECISION ON PETITION
Filed: July 09, 2004	:	
Attorney Docket No. **1121A**	:	

This is a decision on the petition, filed October 03, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the final Office action mailed December 14, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 02, 2007.

Petitioner asserts that the Office action dated December 14, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received 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 instant petition fails to satisfy at least item (3) in the above-stated requirements. The docket report submitted with the instant petition shows no evidence included that the letter of June 08, 2006 was received by USPTO. The office does have evidence of a change in correspondence address filed March 28, 2007 that was subsequent to the mailing of the final Office action dated December 14, 2006. Thus, the final Office action was mailed to the correspondence address of record.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of December 14, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620 petition fee.

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

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

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

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE IAP12
OCT. 03 2008
PATENT & TRADEMARK OFFICE

Trash not Scan IN DAC

Utility Patent
Ser. No. 10/886,544

BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Steven Tsengas	Date: Sept. 4, 2008
Serial No.: 10/886,544	Group Art Unit: 3644
Filed: 07/09/2004	Examiner: Humera N. Sheikh
Title: **CAT LITTER**	Docket: 1121A-DIV

Certificate of Mailing

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: Assistant Commissioner for Patents, Mail Stop PETITIONS, Box 1450, Alexandria, VA 22313 on _____(date).

Typed or printed name of person signing this certificate

_____

Signature_____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300 on 9-30-08 (date).

Printed name of person signing this certificate

TERRY LAKOS

Signature Terry Lakos

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(b)

Mail Stop PETITION
Office of the Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Petitions Office:

Applicant requests that Examiner withdraw the Holding of Abandonment under 37 C.F.R. 1.181(b) for the above referenced application. The Final Office Action dated Dec. 14, 2006 was

sent to the wrong address. In May 2006, Attorney Gugliotta moved his practice to White Pond Drive. Per the PTO's directives (a copy of which is included herein), Attorney Gugliotta sent a cover letter to the Patent Office on Jun. 8, 2006, instructing it to change the correspondence address for all applications listed on a correspondingly accompanying CD. This letter in fact instructed the USPTO to use the address associated with customer number 33055 as the correspondence address. Pursuant to 37 CFR 1.33, the Office is to select an address associated with a Customer Number over a typed correspondence address. A copy of the directive is included herein.

Attorney Gugliotta's reply to the Office Action dated Sep. 1, 2006 was signed with the White Pond address. During the nine months following the change of address, Attorney Gugliotta received a plurality of abandonments for similar reasons. The PTO could not account for entry of changes of addresses for every patent number listed on the CD. To overcome this problem, in March, 2007, Attorney Gugliotta again filed one renewed, mass change of address form which again directed all correspondence to be directed to address associated with the customer number. It was not revealed until the telephone interview on Jun. 25, 2007, eleven days after abandonment, that any Final Office Action was ever mailed. When the Final Office Action was returned to the Patent Office as unmailable, no contact with Attorney Gugliotta was ever made to reconcile this situation, so there was no way for him to become aware of the circumstances.

The Dec. 14, 2006 Office Action was never received by the Practitioner.

The file jacket was searched and the docket records indicate that the Office Action was never received. A copy of the docket record is also included with this petition. A History and

Pending report for this file is included, and it appears (*refer to highlight*) that no Final Action was received during any time period between a mailing of the Sep. 1, 2006 reply and the Jul. 8, 2007 Notice of Abandonment. Similarly, a copy of the docket tracking record fails to reveal any matter due to the Office in March for this client and this customer number (*refer to highlight*).

A copy of the Jun. 2006 change of address form is included. Because 37 CFR 1.33 states that the Office was to select the White Pond address associated with the 33055 Customer Number over the Main Street address submitted with the filing papers, Petitioner submits that the holding of abandonment resulted from a mistake on the part of the Office.

Applicant wishes this petition be granted. Should additional input be required, please telephone the counsel of record listed below.

Respectfully Submitted,

John D. Gugliotta
USPTO Reg. No. 36,538
Patent, Copyright & Trademark Law Group, LLC
4199 Kinross Lakes Parkway, Suite 275
Richfield, OH 44286
Ph: (330) 253-2225
Fax: (330) 659-5855
johng@inventorshelp.com

Enc. Instructions
Letter and Directive
History and Pending Report
Docket REcord

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10886544 Total Records Found: 5

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/22/2008	00000004	1	1999	$750.00	02/21/2008	CK
11/13/2007	00000001	1	2402	$255.00	11/08/2007	CK
07/19/2007	00000033	1	2401	$250.00	07/17/2007	CK
03/17/2006	00000003	1	2814	$65.00	03/13/2006	DA 072380
07/13/2004	00000145	1	2001	$385.00	07/09/2004	CK

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.

PTO/SB/64 (10-08)
Approved for use through 11/30/2008. 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:

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.

OIPE IAP12
OCT 0 3 2008
PATENT & TRADEMARK OFFICE

Not Sure if I Should grant

History & Pending Report

Dr. Steven Tsengas
OurPet's Company

Dr. Steven Tsengas
OurPet's Company
1300 East Street
Fairport Harbor, OH 44077

(800)565-2695
(440)354-6500
(440)354-9129 Fax

Contact Type Client
Major Industry Pet Products
Speciality PCT/US2003/018544
Lead Rating Unknown
Current Mgr

Userdef01
Userdef02
Userdef03
Userdef04
Dec Maker
Objective
Mail List
Special
Open
Open

Comments:
Prev Result: Req. for reconsideration due 10/26/08
Next Step: call about refund for 10/866544 for $770

Last Contact: Feb 15, 2008 5:07pm
Last Attempt:

Last Update: Aug 23, 2008 JOHNG
Creation: 6/11/2004

Pending Activities

Date	Time	Activity	User	Code	Reference
09/23/08		Call	JOHNG		call about refund for 10/866544 for $770

History

Date	Activity	Result Code	User	Reference
06/11/04	Form	EDT	TERRY	appln_u (Dr. Steven Tsengas)
07/20/04	Other		TERRY	Rec. filing postcard from USPTO (oc:Dr. Steven Tsengas)
09/01/04	Form	EDT	TERRY	frcptnon (Dr. Steven Tsengas)
12/21/04	Other		TERRY	Rec. letter re: Korean National Phase (oc:Dr. Steven Tsengas)
12/22/04	Other		TERRY	Rec. Notice of Publication of Applicatio (oc:Dr. Steven Tsengas)
12/27/05	Form	EDT	JOHNG	OA2 Non Final (Dr. Steven Tsengas)
03/13/06	Other		TERRY	Amendment faxed, sent to USPTO (oc:Dr. Steven Tsengas)
09/01/06	Other		TERRY	Amendment faxed, sent to USPTO (oc:Dr. Steven Tsengas)
? 03/23/07	Form	EDT	TERRY	Change of Address Petition (Dr. Steven Tsengas) was sent after abandon also
07/08/07	Call In		JOHNG	rcvd Notice of Abandonment (oc:Dr. Steven Tsengas)
07/12/07	Other		TERRY	Notice of Appeal, $250 to USPTO (oc:Dr. Steven Tsengas)
11/06/07	Other		TERRY	Appeal brief x 3, $255 to USPTO (oc:Dr. Steven Tsengas)
12/27/07	Action		JOHNG	check petition status 10/886544 (oc:Dr. Steven Tsengas) Application went abandoned unintentionally; appeal was filed 07/07,but waiting for unabandonment to act; F/U every 6 months
02/10/08	Appoint.		JOHNG	(oc:Dr. Steven Tsengas)
02/12/08	Other		TERRY	Left VM for Exam Sheikh for status of petition, see not (oc:Dr. S Ms. Humera Sheikh - 571-272-0604
02/12/08	Other		TERRY	Examiner Sheikh response, see notes (oc:Dr. Steven Tsengas) 2/12/08 12:18 PM Examiner Sheikh 10/886544. Indicated you had called to find status. You filed a petition on 7/13/07 and have not heard back. Reason for

OIPE
OCT 03 2008
PATENT & TRADEMARK OFFICE

Patent, Copyright & Trademark Law Group, LLC

Attorneys at Law

Registered Patent Attorneys
J. D. Gugliotta, P.E., Esq.
Eric Babych*
Ronald Krosky*
* Registered Patent Agent

Of Counsel
David M. Chester, Esq.
Nicholas C. DeGennaro, Esq.
Vincent J. Kloss, Esq.

June 8, 2006

Dear Commissioner for Patents:

Please associate the customer number: 33055

with the correspondence address or the fee address, as shown on the attached spreadsheet.

For each application listed on the attached spreadsheet, I am:

Select one:

☐ The Inventor and there is no registered patent attorney or agent of record.

☒ An Attorney, Agent of Record or person granted Limited Recognition

Typed or printed name, signature and Registration Number (if any):

Printed Name / Signature	Registration Number
John D. Gugliotta	36,538

Note: Signatures of (1) all of the applicants or, if deceased, their legal representative(s), or (2) a registered patent attorney, agent of record or person granted Limited Recognition in each of the applications or patents listed on the spreadsheet are required.

Date: 8-Jun-06

Telephone Number: 330-253-5678

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this customer number update request by electronic mail. I understand that a copy of the confirmation of the change of address, but not the e-mailed confirmation, will be made of record in the applicaiton file(s).

E-mail Address: johng@pctlawgroup.com

137 South Main Street Suite 202 • Akron, Ohio 44308-1416 • Phone: 330.253.5678 • Fax: 330.253.6658
e-mail:patent@PCTLawGroup.com

RETURN TO FORM

Upload Instruction Sheet:

The Customer Number uploads **MUST** be submitted via **diskette or CD accompanied by a cover letter** (see sample cover letter) signed by someone who, for each application or patent listed on the attached spreadsheet, is either: (1) the inventor, (2) a person granted limited recognition, or (3) an attorney or agent of record in each of the applications listed on the spreadsheet. Mail your diskette or CD to:

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

We cannot currently accept PCT international applications or Reexamination Proceedings (90 or 95 series cases) in this program.

Do not use slashes or commas when entering patent numbers and/or application numbers.

Submission requirements are set forth in the Official Gazette dated January 7, 1997 on page 1194 OG 4.

The USPTO will enter a change in correspondence address or fee address in a listed application or patent only when one of below listed identifers is valid and the authorizating signature is either the inventor or attorney of record in each of the listed applications.

1. the **patent number;**
2. the **application number**;

Authorization to communicate via e-mail should be provided on the cover letter to expedite processing.

For questions please contact the Electronic Business Center Help Desk at toll free (866) 217-9197 or by e-mail at EBC@uspto.gov (questions only).

WHAT HAPPENS AT USPTO

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT, COPYRIGHT & TRADEMARK LAW GROUP
PO BOX 506
RICHFIELD OH 44286

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven Tsengas et al	:	
Application No. 10/886,545	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 1121B	:	

This is a decision on the petition filed June 4, 2007, under 37 CFR 1.137(a), or, in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

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(a) or (b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition became abandoned for failure to reply in a timely manner to the Nonfinal Rejection mailed October 16, 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 January 17, 2007.

Petitioner alleges that a change of address had been attempted on June 8, 2006 through the EBC upload program and that subsequently to the request of June 8, 2006, access to the PAIR system suggested that the change of address upload was successful. Petitioner states that around February 2007, the attorney of record became aware that not all records had been update and that beginning in March, a change of address was submitted.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lack(s) item(s) (2) and (3).

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). *See* MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the U.S. Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Even though petitioner states that an attempt was made on June 8, 2006, through the EBC to upload a change of address and that, access to the PAIR system suggested that the change of address upload was successful, a review of the written record indicates otherwise and, no irregularity in the mailing of the Office action on October 16, 2006. Office records do show

receipt of a change of address on March 23, 2007, for Customer No. **33055**. A change of address was also received on February 19, 2008, for Customer No. **30355**. The petition further states that the failure to timely reply to the Notice Of Allowance was unavoidable or, in the alternative, unintentional. However, no Notice of Allowance was ever mailed for the above application. Clarification is required.

In summary, the showing of record is inadequate to establish unavoidable delay.

As to the petition under 37 CFR 1.137(b) to revive the above-identified application, the petition is dismissed.

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

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

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

By hand: Customer Window located at:

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT, COPYRIGHT & TRADEMARK
LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD OH 4286

COPY MAILED
AUG 18 2008

In re Application of	:
Steven Tsengas et al	:
Application No. 10/886,545	: DECISION GRANTING PETITION
Filed: July 9, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 1121B	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed October 16, 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 1615 to consider the amendment submitted on June 2, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

4-12-07

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

Patent No. : 7,145,861
Ser. No. : 10/886,554
Inventor(s) : Kyung-geun Lee, et. al.
Issued : Decelmber 5, 2006
Title : APPARATUS FOR RECORDING AND/OR REPRODUCING OPTICAL DISK
Docket No. : 1293.1372C

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 102

James G. McEwen
Stein, McEwen & Bui
1400 Eye St., NW
Washington, DC 20005

ej

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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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

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DEC 07 2007

OFFICE OF PETITIONS

In re Patent No. 7,145,861	:	
Issue Date: December 5, 2006	:	
Application No. 10/886,554	:	ON PETITION
Filed: July 9, 2004	:	
Patentee(s): Kyung-Geun Lee, et. al.	:	

This is a decision on the petition, filed June 22, 2007, which is being treated as a request under 37 CFR 3.81[1], to add a second name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature 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.

Additionally, since the processing fee of $130 is required for treatment of the present request, that fee has been charged to petitioner's deposit account, as authorized.

Since the requirements of 37 CFR 3.81 have been met, the request under 37 CFR 3.81 is **GRANTED**.

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.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LINIAK, BERENATO & WHITE
6550 ROCK SPRING DR.
SUITE 240
BETHESDA, MD 20817

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Hott, et al. :
Application No.10/886,557 :
Filed: July 9, 2004 :
Attorney Docket No. 03514.159-DIV :

DECISION GRANTING PETITION

This is a decision on petition filed September 1, 2004, requesting that the above-identified application be accorded a filing date of July 9, 2004.

On July 9, 2004, the above-identified application was filed. On August 27, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because the specification and drawings were missing. The Notice also required an oath or declaration to be filed and a surcharge for the late filing of the same. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on September 1, 2004, applicant filed the instant petition along with a copy of the application transmittal sheet, the specification and drawings for the subject application. An executed declaration was also filed. Petitioner concedes that the postcard sent with original application papers was not properly itemized. Alternatively, petitioner argues that subject application incorporated by reference a prior application in its entirety by a statement found on the application transmittal sheet and, therefore, the application was complete on filing and entitled to a filing date of July 9, 2004.

The incorporation by reference statement was found on the application transmittal sheet. It is noted, however, that the serial number of the application to be incorporated was not provided on the application transmittal sheet. References to the prior application were found throughout the specification of the subject application. Section 608.01(p) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. *In re de Seversky*, 474 F.2d 671, 177 USPQ 144 (CCPA 1973). In addition to other requirements for an application, the referencing application should include an identification of the referenced patent, application, or publication.

The MPEP does not appear to require that the serial number of the prior application be included in the statement itself, but that the application itself should certainly identify the referenced application. The incorporation by reference statement will be considered proper as the referenced application was identified in the subject application.

Accordingly, the petition is granted; the subject application will be accorded a filing date of July 9, 2004, with the specification, drawings, and declaration as part of the original disclosure. The examiner assigned to the subject application will be expected to determine whether there is any new matter.

Deposit account 50-0548 will be charged $130.00 for the instant petition fee.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 9, 2004.

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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MAIL

JUN 26 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of	:	
SHINJI FUKUDA ET AL	:	DECISION ON REQUEST TO
Application No. 10/886585	:	PARTICIPATE IN PATENT
Filed: July 9, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 18612.04135	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed May 30, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,356,104
Ser. No. : 10/886,585
Inventor(s) : Fukuda et al.
Issued : Apr. 8 ,2008
Title : RADIO COMMUNICATION APPARATUS AND INTERFERENCE AVOIDING METHOD
Docket No. : L8612.04135

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: .

Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax:

(571) 273-0025
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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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THOMPSON LAMBERT LLP
2711 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of
Bob B. Ha
Application No. 10/886,604
Filed: July 9, 2004
Attorney Docket No. 384-1

ON PETITION

This is a decision on the petition filed June 19, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition also pleads in the alternative to revive the instant application under 37 CFR 1.137(a) or 1.137(b).

The petition under 37 CFR 1.181(b) is **DISMISSED.**
The petition under 37 CFR 1.137(a) is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before May 30, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides copies of the docket and log used for tracking incoming mail and due dates for action to the United States Patent and Trademark Office ("USPTO").

In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

A review of the file reveals that an address change was filed near the time of the mailing and non-receipt of the Notice of Allowance. The evidence presented however does not establish for the reviewer that the reason for non-receipt can't be attributed to the address change and thus, the requirements under 37 CFR 1.181 have not been met. In view thereof, the holding of abandonment cannot be withdrawn.

SHOWING OF UNAVOIDABLE DELAY
Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits

> them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Since petitioners have failed to establish that the office communication wasn't in fact received, and since the unavoidable argument is based on non-receipt, petitioners have also not shown that the delay in responding to the Notice of Allowance was unavoidable.

Instead and in view of the petition alternatively pleading under the unintentional standard and payment for charges under the unintentional fee, the issue fee and petition fee under 37 CFR 1.137(b) in the amount of $700.00 and $750.00, respectively, have been charged as well as the fee for the petition under the unavoidable standard in the amount of $250.00.

Furthermore, since the petition was treated under the unavoidable standard the petition fee paid cannot be refunded.

This application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091202

DATE : December 19, 2008

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction on Patent No.: 10/886641

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The requested changes appear directed towards grammatical corrections and do not affect the scope of the claims.

/Toan Ton/
Supervisory Patent Examiner, Art Unit 2889

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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Shoji KODAMA
Application No. 10/886,646
Filed: July 9, 2004
For: FILE SERVER FOR LONG TERM DATA ARCHIVE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on August 4, 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 August 4, 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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Commissioner for Patents
United States Patent and Trademark Office
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Kodama
Application No. 10/886,651
Filed: 9 July 2004
For: METHOD AND APPARATUS FOR DISK ARRAY BASED I/O ROUTING AND MULTI-LAYERED EXTERNAL STORAGE LINKAGE

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

This is a decision on the petition filed 15 June 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

GO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 29, 2008

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/886674 Patent No.: 7173234

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

Georgia Y. Epps
SPE, AU 2878

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of	:
Stitchick, et al.	: DECISION REFUSING STATUS
Application No. 10/886,721	: UNDER 37 CFR 1.47(a)
Filed: July 7, 2004	:
Atty. Dkt. No.: 29939/39078F	:
For: SHOE SHELF FOR ADJUSTABLE	:
ORGANIZER SYSTEM	:

This decision is in response to the petition under 37 CFR 1.47(a), filed March 25, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 July 7, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed August 31, 2004 requiring an executed oath or declaration and a surcharge.

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

The instant petition fails to satisfy (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable as it contains alterations that have not been initialed or dated. *See*, 37 CFR 1.52(c) and MPEP 605.04(a). Petitioners are further advised that the declaration as submitted fails to properly identity the inventors in consecutive order whereby inventors Marchetta, Pelfrey, and Costa are each identified as the third inventor. Any renewed petition must include a newly executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64. *See*, MPEP 409.03(a).

Petitioners should further consider whether a supplemental application datasheet should be submitted to reflect current addresses for the inventors. *See*, 37 CFR 1.76 and MPEP 601.05.

As to item (3), the required petition fee ($200.00) was not submitted. According, the balance due ($70.00) has been charged to Deposit Account No. 13-2855.

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

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

By facsimile: (703) 872-9306

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

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

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

In re Application of	:
Stitchick, et al.	: DECISION GRANTING STATUS
Application No. 10/886,721	: UNDER 37 CFR 1.47(a)
Filed: July 7, 2004	:
Atty. Dkt. No.: 29939/39078F	:
For: SHOE SHELF FOR ADJUSTABLE	:
ORGANIZER SYSTEM	:

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

The petition is **GRANTED**.

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

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Frazer Costa
8683 Lansdale Avenue NW
North Canton, Ohio 44720

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OFFICE OF PETITIONS

In re Application of	:	
Stitchick, et al.	:	
Application No. 10/886,721	:	LETTER
Filed: July 7, 2004	:	
Atty. Dkt. No.: 29939/39078F	:	
For: SHOE SHELF FOR ADJUSTABLE	:	
ORGANIZER SYSTEM	:	

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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JUN 15 2005
OFFICE OF PETITIONS

In re Application of	:
Frazer Costa et al.	:
Application No. 10/886,749	: DECISION ACCORDING STATUS
Filed: July 7, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 29939/39078E	:

This is in response to the petition filed March 18, 2005 under 37 CFR 1.47(a).

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

The above-identified application was filed on July 7, 2004, without an oath or declaration. Accordingly, on September 13, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Frazer Costa, Anthony Marchetta and David M. Stitchick as joint inventors but only executed by inventors Marchetta and Stitchick, a late filing surcharge and a request for a four month extension of time were filed. The petition argues that joint inventor Costa refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to and received by Mr. Costa and that to date, he has not returned an executed copy of the oath or declaration.

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

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

Please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 13-2855 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to Technology Center 3634 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

FRAZER COSTA
8683 LANSDALE AVENUE, NW
NORTH CANTON, OH 44720

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JUN 1 5 2005

OFFICE OF PETITIONS

In re Application of
Frazer Costa et al.
Application No. 10/886,749
Filed: July 7, 2004
For: TOP RAIL ASSEMBLY FOR ADJUSTABLE ORGANIZER SYSTEM

Dear Mr. Costa:

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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

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MAY 21 2009

OFFICE OF PETITIONS

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

In re Application of	:	
Antonio A. ALBANO et al.	:	
Application No. 10/886,765	:	DECISION ON PETITION
Filed: July 08, 2004	:	
Attorney Docket No. **21775 US2**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 09, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 02, 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 September 03, 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(s) (3) in that the statement of unintentional delay is unacceptable as the signature of attorney Megerditchian is not accompanied by his registration number. See 37 CFR 1.4(d)(2).

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 $1110 extension of time fee submitted with the petition on January 09, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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OFFICE OF PETITIONS

In re Application of	:	
Antonio A. ALBANO et al.	:	
Application No. 10/886,765	:	DECISION ON PETITION
Filed: July 08, 2004	:	
Attorney Docket No. **21775 US2**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 02, 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 September 03, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 10/886,765, filed July 08, 2004.

The petition fee submitted on July 20, 2009 is a duplicate payment and will be refunded to the deposit account 08-2525.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,419,674	:
Chulay et al.	: DECISION UPON REMAND AND
Issue Date: September 2, 2008	: RECONSIDERATION OF
Application No. 10/886,773	: PATENT TERM ADJUSTMENT
Filed: July 8, 2004	: AND NOTICE OF INTENT
Attorney Docket No.9368.7	: TO ISSUE CERTIFICATE OF
Title: Alpha Virus-Based	: CORRECTION
Cytomegalovirus Vaccines	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seventy-two (72) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seventy-two (72) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,419,674 B2

DATED : **September 2, 2009** **DRAFT**

INVENTOR(S) : Chulay 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 20 days

Delete the phrase "by 20 days" and insert – by 72 days--

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 11:03:15

PTA Calculations for Application: 10/886773			
Application Filing Date:	07/08/2004	PTO Delay (PTO):	222
Issue Date of Patent:	09/02/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	202
Post-Issue Petitions:	0	Total PTA (days):	72
PTO Delay Adjustment:	52		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	52		
81.5	08/13/2008	PTA 36 MONTHS			
81	09/02/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
80	08/01/2008	EXPORT TO FINAL DATA CAPTURE			
79	07/30/2008	DISPATCH TO FDC			
78	07/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
77	07/29/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
76	07/29/2008	ISSUE FEE PAYMENT VERIFIED			
75	07/29/2008	ISSUE FEE PAYMENT RECEIVED			
74	07/25/2008	FINISHED INITIAL DATA CAPTURE			
73	05/30/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
72	05/23/2008	EXPORT TO INITIAL DATA CAPTURE			
71	05/21/2008	MAIL NOTICE OF ALLOWANCE			
70	05/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
69	05/20/2008	NOTICE OF ALLOWABILITY			
64	02/19/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
63	03/19/2008	DATE FORWARDED TO EXAMINER			
62	02/19/2008	RESPONSE AFTER NON-FINAL ACTION			
61	02/20/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	02/14/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
59	11/19/2007	MAIL NON-FINAL REJECTION			

58	11/13/2007	NON-FINAL REJECTION			
57	10/11/2007	CORRESPONDENCE ADDRESS CHANGE			
55	09/05/2007	DATE FORWARDED TO EXAMINER			
54	08/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	09/05/2007	DATE FORWARDED TO EXAMINER			
52	08/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	42
51	09/05/2007	DISPOSAL FOR A RCE / CPA / R129			
50	08/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	08/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	08/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
47	04/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	04/30/2007	REFERENCE CAPTURE ON IDS			
45	04/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		81	37
43	04/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	05/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
41	04/30/2007	FINAL REJECTION			
40	02/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39.7	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	02/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	02/22/2007	DATE FORWARDED TO EXAMINER			
37	02/08/2007	RESPONSE AFTER NON-FINAL ACTION		92	35
36	02/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	08/08/2006	MAIL NON-FINAL REJECTION			
34	08/07/2006	NON-FINAL REJECTION			
33	12/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

30	11/03/2005	CONSIDERED			
29	05/23/2006	DATE FORWARDED TO EXAMINER			
28	05/18/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
27	04/18/2006	MAIL RESTRICTION REQUIREMENT	222		-1
26	04/17/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
25	01/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
24.7	11/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	05/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	03/31/2005	REFERENCE CAPTURE ON IDS			
20.7	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	02/10/2005	REFERENCE CAPTURE ON IDS			
18.7	01/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/13/2004	REFERENCE CAPTURE ON IDS			
16.7	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/01/2004	APPLICATION RETURN FROM OIPE			
14	12/01/2004	APPLICATION RETURN TO OIPE			
13	11/30/2004	APPLICATION DISPATCHED FROM OIPE			
12	12/01/2004	APPLICATION IS NOW COMPLETE			
11	11/15/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	11/30/2004	CORRESPONDENCE ADDRESS CHANGE			
9	09/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
7	09/02/2004	CLEARED BY L&R (LARS)			
6	08/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			

5	08/23/2004	CASE CLASSIFIED BY OIPE			
4	08/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	07/26/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	07/08/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/08/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MONTA R. BROWDER, P.A.
2ND FLOOR SUITE
314 SHELL ROAD
CARNEY'S POINT NJ 08069

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Andreasson et al.	:	DECISION ON PETITION
Application Number: 10/886778	:	
Filing Date: 07/08/2004	:	
Attorney Docket Number: JMYT-217US1	:	

This is a decision in reference to the petition filed on 10 September, 2007 (postcard date 20 July, 2007) under 37 CFR 1.182 and 1.183, requesting consideration of a protest under 37 CFR 1.291(a).

The petition is **DISMISSED.**

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

37 CFR 1.182 states that:

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

As such, a petition under 37 CFR 1.182 is inappropriate because the filing of a protest is not a situation not specifically provided for in the regulations.

As such, the petition is dismissed. As the petition has been considered, the $400.00 petition fee will be charged to counsel's deposit account, No. 05-1070, as authorized in the present petition.

The application is being referred to Technology Center Art Unit 1754 for treatment of the protest under 37 CFR 1.291.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 11-04

CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO TX 75024

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:
Thomason et al.	: DECISION GRANTING
Application No. 10/886,780	: PETITION
Filed: 8 July, 2004	:
Attorney Docket No. 4005-01900	:

This is a decision on the petition filed on 19 October, 2004, which is treated as a petition filed under 37 CFR 1.53 requesting that the above-identified application, including two (2) sheets of drawings, be accorded a filing date of 8 July, 2004.

The application was filed on 8 July, 2004. Accordingly, on 2 September, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 19 October, 2004, the present petition was filed, accompanied by two (2) sheets of drawings.

Petitioners assert that the application as filed included two (2) sheets of drawings which were misplaced after receipt at the USPTO. In support, a copy of petitioners' itemized postcard receipt was supplied. The postcard bears an Office date stamp of 07-08-04 and the above-identified application number and identifies the application by attorney docket number, first named inventor's name, and invention title, and itemizes the filing of, *inter alia*, "Drawings 2 sheets / Figs. 1-3).

A review of the record reveals that no sheets of drawings received on 8 July, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 8 July, 2004, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 8 July, 2004.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 50-1515.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 8 July, 2004, using the application papers filed on that date, and the copy of two (2) sheets of drawings described in the specification supplied with the present petition.

Telephone inquiries should 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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EcoTech Law Group, P.C.
201 SPEAR STREET
SUITE 1100
SAN FRANCISCO, CA 94105

Mail Date: 04/20/2010

Applicant	: Suraj Puri	: DECISION ON REQUEST FOR
Patent Number	: 7655094	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **926** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of
Marchetta, Stitchick, Ghiorghie, Costa, and Rodi
Application No.: 10/886,790
Filed: July 7, 2004
Attorney Docket No: 29939/39078D
For: ADJUSTABLE LENGTH WIRE SHELVES FOR ADJUSTABLE ORGANIZER SYSTEM

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed March 25, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on July 7, 2004, without a properly executed declaration. On September 2, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration and surcharge for the late filing of the same. On March 25, 2004, the instant petition was filed with a request for an extension of time within the fourth month and evidentiary documents and statements.

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

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

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

Deposit account 13-2855 will be charged $70.00 towards the instant petition fee pursuant to the authorization provided on the Fee Transmittal filed with the original application papers.

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

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

Kenya A. McLaughlin

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

Mr. Frazer Costa
8683 Lansdale Avenue
N. Canton, OH 44720

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MAY 1 2 2005
OFFICE OF PETITIONS

In re Application of :
Marchetta, Stitchick, Ghiorghie, Costa, and Rodi :
Application No.: 10/886,790 : LETTER
Filed: July 7, 2004 :
Attorney Docket No: 29939/39078D :
For: ADJUSTABLE LENGTH WIRE SHELVES FOR ADJUSTABLE ORGANIZER SYSTEM

Dear Mr. Costa:

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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

Mail Date: 04/20/2010

Applicant	: Walter R. Friedrich	: DECISION ON REQUEST FOR
Patent Number	: 7580375	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,796	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of Stitchick, et al. Application No.: 10/886,812 Filed: July 7, 2004 Attorney Docket No.: 29939/39078B For: MOUNTING UPRIGHT AND CLIP FOR ADJUSTABLE ORGANIZER SYSTEM	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 21, 2005 (certificate of mailing date March 18, 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 inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 7, 2004 without an executed oath or declaration. Accordingly, on September 3, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on March 21, 2005 (certificate of mailing date March 18, 2005), a request for a five month extension of time and required fee, a declaration executed by 3 of 4 joint inventors, the surcharge, the petition fee, and the instant petition were filed.[1] A statement of facts by Attorney Bryan J. Lempia accompanies the petition. The statement of facts establishes that the non-signing inventor, Frazer Costa, was mailed a copy of the application and various documents, including a declaration, for his signature, but he did not return any executed documents.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint

[1] The current Rule 47 petition fee is $200.00. Petitioners paid only $130.00. Pursuant to petitioners' authorization, deposit account no. 13-2855 will be charged the $70.00 balance due.

inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the fee of $200, and

(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alterations to the three signing inventors' information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. 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. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

The three signing inventors should correct their respective information on a supplemental declaration identifying the entire inventive entity and their information (including the non-signing inventor). The three signing inventors should execute the supplemental declaration.

It is noted that some of the information listed on the Application Data Sheet (ADS) submitted with the original application papers is inconsistent with the information listed on the declaration. A supplemental ADS should be submitted.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Stitchick, et al.
Application No.: 10/886,812
Filed: July 7, 2004
Attorney Docket No.: 29939/39078B
For: MOUNTING UPRIGHT AND CLIP FOR ADJUSTABLE ORGANIZER 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 July 11, 2005 (certificate of mailing date July 7, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Frazer Costa, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, a statement of facts by Attorney Bryan J. Lempia that accompanied the March 21, 2005 (certificate of mailing date March 18, 2005) petition establishes that the non-signing inventor, Frazer Costa, was mailed a copy of the application and various documents, including a declaration, for his signature, but he did not return any executed documents. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center G.A.U. 36327 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

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FRAZER COSTA
8683 LANSDALE AVE.
N. CANTON, OH 44720

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Stitchick, et al.
Application No.: 10/886,812
Filed: July 7, 2004
Attorney Docket No.: 29939/39078B
For: MOUNTING UPRIGHT AND CLIP FOR ADJUSTABLE ORGANIZER SYSTEM

LETTER

Dear Mr. Costa:

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AVERY DENNISON CORPORATION
PATENT GROUP
LAW DEPARTMENT – 3 SOUTH
P.O. BOX 7090
PASADENA, CA 91109-7090

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DEC 07 2007

OFFICE OF PETITIONS

In re Application of :
Ian J. Forster et al :
Application No. 10/886,831 : ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. 3550-US

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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LAW DEPARTMENT – 3 SOUTH
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PASADENA, CA 91109-7090

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Ian J. Forster et al	:	
Application No. 10/886,831	:	DECISION DISMISSING PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 3550-US	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 8, 2008, requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 12, 2008, with the issue fee being due on or before May 12, 2008. The issue fee in this case has not been paid.

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

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.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2612 for appropriate processing of the RCE filed May 8, 2008, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petition Examinier
Office of Petitions

cc: Avery Dennison Corporation
Law Department
150 N. Orange Grove Boulevard
Pasadena, CA 91103

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Thomas Maier	: DECISION ON REQUEST FOR
Patent Number	: 7582460	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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P.O. Box 1450
Alexandria, VA 22313-1450
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George S. Kolocouris
Benesch, Friedlander, Coplan & Aronoff, LLP
2300 BP Tower
200 Public Square
Cleveland, OH 44114

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APR 26 2007

OFFICE OF PETITIONS

In re Application of:
William C. Morrison
Application No.: 10/886,889
Filed: July 8, 2004
Atty's Docket No.: 29435-1

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 05, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed February 09, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on May 09, 2006.

On September 05, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
AUG 23 2005
Technology Center 2100

In re Application of: Kitamura
Application No. 10/886,892
Filed: 7 July 2004

For: HIERARCHICAL STORAGE MANAGEMENT SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 24 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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COMMISSIONER FOR PATENTS
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of :
Alexander I. Yatskov, et al. :
Application No. 10/886,911 :
Filed: July 8, 2004 :
Attorney Docket No.: 324758024US :

ON PETITION

This is a decision in response to a communication filed November 9, 2006 requesting immediate consideration of a petition, filed November 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. As the original petition cannot be located, a decision on the copy provided on November 9, 2006 follows.

The petition is **GRANTED**.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Stephen E. Arnett 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 above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 2006, 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.

[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 2835 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Shawn Hunter
P.O. Box 270110
Houston, TX 77277-0110

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AUG 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph Cuccurullo	:	
Application No. 10/886,915	:	DECISION ON PETITION
Filed: July 8, 2004	:	TO WITHDRAW
Attorney Docket No. CUC-1000	:	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 11, 2006.

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

A review of the file record indicates that the power of attorney to Shawn Hunter and all attorneys/agents associated with customer number 27447 have been revoked by the applicant of the patent application on June 13, 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: James L. Jackson
10723 Sugar Hill Drive
Houston, TX 77042

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Shawn Hunter
P.O. Box 270110
Houston, TX 77277-0110

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph Cuccurullo	:	
Application No. 10/886,916	:	DECISION ON PETITION
Filed: July 8, 2004	:	TO WITHDRAW
Attorney Docket No. CUC-1000	:	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 11, 2006.

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 Shawn Hunter and all attorneys/agents of record has been revoked by the applicant of the patent application on June 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James L. Jackson
10723 Sugar Hill Drive
Houston, TX 77042

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HUGH P. GORTLER
23 ARRIVO DRIVE
MISSION VIEJO CA 92692

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian J. Tillotson	:	
Application No. 10/886,921	:	DECISION GRANTING PETITION
Filed: July 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03-1424	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 11, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2123 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Brian J. Tillotson	: DECISION ON REQUEST FOR
Patent Number	: 7650268	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1524** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVENUE
SUITE 5400
SEATTLE WA 98104

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:
Aloys Wobben	:
Application No. 10/886,945	: DECISION GRANTING PETITION
Filed: July 8, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 970054.468C1	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of January 4, 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 3612.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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YOUNG J. SUH
CHIRON CORPORATION
P.O. BOX 8097
EMERYVILLE, CA 94662

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of
Paul A. Renhowe et al
Application No. 10/886,950
Filed: July 8, 2004
Attorney Docket No. 16038.046

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Foley & Lardner LLP
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/886,950	RENHOWE ET AL.	
	Examiner	Art Unit	
	D. Margaret Seaman	1625	

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

THE REPLY FILED 13 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *13,17-19 and 21*.
   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: See Continuation Sheet.

/D. Margaret Seaman/
Primary Examiner, Art Unit 1625

Continuation of 13. Other: The rejections on record are maintained. The amendments to the claims complicate the rejections of record by adding in the patient is now a cancer patient but do not disclose what condition that the cancer patient has that is being treated. The rejections of record are maintained..

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CHIRON CORPORATION
P.O. BOX 8097
EMERYVILLE, CA 94662

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OFFICE OF PETITIONS

In re Application of	:	
Paul A. Renhowe et al	:	
Application No. 10/886,950	:	DECISION ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 16038.046	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1625 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Foley & Lardner LLP
150 East Gilman Street
P. O. Box 1497
Madison, WI 53701-1497

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 04/21/2010

Applicant	: Christopher E. Michael	: DECISION ON REQUEST FOR
Patent Number	: 7649616	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/886,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA, VA 22313-1450
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THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
Sawhney et al. :
Application No. 10/086,989 : ON PETITION
Filed: February 28, 2002 :
FOR: SERVER SOLUTION FOR :
AUTOMATIC UPDATES WITHOUT :
USING APPLETS :

This is a decision on the Petition to Accept Declaration Under 37 C.F.R 1.47, filed May 19, 2005. The petition is properly treated under 37 CFR 1.183, to waive the requirement under 37 CFR 1.67 that all of the inventors sign a supplemental declaration.[1]

The petition under 37 CFR 1.183 is **DISMISSED**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183", 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).

Background

Applicant files the instant petition and unexecuted oath/declaration, and asserts that the original declaration contained a typographical error in the spelling of inventor Inderpal S. Sawhney's name and, as such, a Supplemental declaration is required.

[1] A petition under 37 CFR 1.47 only applies to the initially filed 37 CFR 1.63 declaration.

Applicable Law

37 CFR 1.67 states, in pertinent part:

> (a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of §1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.
>
> (1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants. (Emphasis Supplied).

Further to this, the Manual of Patent Examining Procedure provides, in relevant part, that

> [w]hen an inventor who executed the original is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a).

With the instant petition, Applicant has failed to provide a supplemental oath or declaration signed by all the inventors or applicants.

Accordingly the petition is dismissed.

Alternate venue

Applicant is advised that, in this instance, a supplemental oath/declaration is not required to correct a typographical (or transliteration) error in the spelling of an inventor's name. In this instance, the Office strongly encourages, and applicant is advised to file, an Application Data Sheet or Supplemental Application Data Sheet to correct the typographical or transliteration error.

Finally, Applicant is advised that the fee for a petition under 37 CFR 1.183 has increased, effective December 8, 2004, to $400.00. Applicant has submitted $130.00 for the petition fee with the instant petition. Accordingly, Applicant's deposit account has been charged the difference, $270.00, as authorized in the Fee Transmittal filed with the instant petition.

The fee is charged because the instant petition was not necessitated by an error on the part of this Office.

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

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

By FAX: (571) 273-0025
Attn: Office of Petitions

By hand: 220 20th Street S.
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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
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DWIGHT H. RENFREW, JR.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10th FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

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OFFICE OF PETITIONS

In re Application of	:	
Sackner et al	:	
Application No. 10/886,994	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 0001672USQ	:	
Title: Method And System For Extracting	:	
Cardiac Parameters From Plethysmographic	:	
Signals		

This is a decision on the petition under 37 CFR 1.182, filed on May 12, 2005, to correct the name of a named co-inventor for the above-identified application.

The petition is **GRANTED**.

The names of the co-inventor's for the above application are:

1. Marvin Sackner
2. Barry Keenan
3. Dana Michael Inman

The decision is being forwarded to the Office of Initial Patent Examination for removal of the 4th inventor Desmond Keenan (derivative of 2nd inventor's name) and a corrected filing receipt. A newly executed declaration identifying the second inventor has been executed by Barry Keenan and submitted with the petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/23/05

TO SPE OF : ART UNIT **3754**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/887001 6938795

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

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

Thank You For Your Assistance

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 3754

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OCT 14 2004

In re Application of	:	
Steven S. Johndreau et al.	:	
Serial No. 10/887,014	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO MAKE SPECIAL
For: AUTOMATIC BALL THROWING	:	
DEVICE, DIRECTING DEVICE	:	
THEREFOR AND METHOD OF	:	
MAKING AN AUTOMATIC BALL	:	
THROWING DEVICE	:	

Applicant's petition, filed July 7, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Castle & Gross, LLP
11231 Gold Express Drive, Suite 100
Gold River, CA 95670

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

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OFFICE OF PETITIONS

In re Application of	:	
Raanan A. Miller et al	:	
Application No. 10/887,016	:	DECISION ON PETITION
Filed: July 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SION-P15-041	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed July 31, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. § 708.02(XI). The specification and claims as originally filed indicate the invention is directed to detecting items of interest that may be used for terrorist activities. Identifying and detecting do not equate to "countering". Identifying and detecting items of interest in itself does not materially contribute to countering terrorism. Further steps would be required to actually offset or nullify terrorism. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 2622 for action in its regular turn.

David Buczo
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

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

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JUN 0 9 2008

In re Application of	:	
Raanan A. Miller et al	:	
Application No. 10/887,016	:	DECISION ON PETITION
Filed: July 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SION-P15-041	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(2)(iii), filed March 5, 2007, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner Irvin Dingle at 571-272-3210.

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

The application is being forwarded to the Technology Center Art Unit 2881 for action on the merits commensurate with this decision.

David Buccei
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

ELI LILLY AND COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of
Cochran, et al.
Application No. 10/887,017
Filed: July 8, 2004
Attorney Docket No. X-10044D
For: ORAL 2-METHYL-THIENO-BENZODIAZEPINE FORMULATION

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

This is in response to the petition under 37 CFR 1.47(b), filed December 20, 2004 (certificate of mailing date December 14, 2004), which is being treated under 37 CFR 1.47(a).

Petitioners are reminded that when one joint inventor signs, the provisions of 37 CFR 1.47(a) apply with respect to the non-signing joint inventors. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b)

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventor, Tommy Clifford Morris, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Nelsen L. Lentz establishes that the inventor was successfully mailed the application papers, including the specification and claims, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. The addendum to the declaration signed by Douglas K. Norman, Deputy General Counsel/General Patent Counsel of Eli Lilly and Company, will be retained in the application file, but is not considered part of the declaration.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1600 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL J. BUCHENHORNER
8540 SW 83 STREET
MIAMI, FL 33143

MAILED

SEP 25 2009

OFFICE OF PETITIONS

In re Application of :
Maria ELEFTHERIOU et al. :
Application No. 10/887,026 : ON PETITION
Filed: July 08, 2004 :
Attorney Docket No. YOR920040205US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice) mailed March 24, 2008, which set a shortened statutory period for reply of 30 days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of March 24, 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.

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

The application file is being referred to Technology Center AU 2193 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JESSE A. HIRSHMAN, ESQ.
1722 MURRAY AVENUE, THIRD FLOOR
PITTSBURGH, PA 15217

COPY MAILED

AUG 15 2008

In re Application of	:	
Alan J. Russell, et al.	:	
Application No. 10/887,029	:	DECISION ON PETITION
Filed: July 7, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 0002.0055	:	

This is a decision on the petition, filed April 10, 2008, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the 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 non-provisional 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 the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1615 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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
10/887,029	07/07/2004	1615	666	0002.0055	44	3

CONFIRMATION NO. 2256

CORRECTED FILING RECEIPT

52323
JESSE A. HIRSHMAN, ESQ.
1722 MURRAY AVENUE, THIRD FLOOR
PITTSBURGH, PA 15217

OC000000031565145

Date Mailed: 08/14/2008

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

Applicant(s)

Alan J. Russell, Wexford, PA;
Richard Koepsel, Pittsburgh, PA;
Sang Boem Lee, Pittsburgh, PA;
Krzysztof Matyjaszewski, Pittsburgh, PA;

Power of Attorney: The patent practitioners associated with Customer Number 52323

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/485,957 07/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/887,029**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Antimicrobial surfaces and methods for preparing antimicrobial surfaces

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Lufang Wen	: DECISION ON REQUEST FOR
Patent Number	: 7593563	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/887,034	07/08/2004	Karl J. Scheidler	KJS-02A	5268

26875 7590 08/13/2008
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER
KHAN, AMINA S

ART UNIT	PAPER NUMBER
1751	

MAIL DATE	DELIVERY MODE
08/13/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/12/07

TO SPE OF : ART UNIT 1757

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/887034 Patent No: 7157018 B2

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

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

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

/Vasu Jagannathan/
SPE

1796
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of William Hubiak, Duane Byerly, William Ryan and Gordon Craig Application No. 10/887,051 Filed: July 8, 2004 Atty Docket No. 790063.94621 Title: Flexible Coupling Having a Center with Opposing Re-entrant Folds	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed July 8, 2004.

The petition is **GRANTED**.

The above-identified application was filed on July 8, 2004, with a declaration executed by joint inventors Hubiak, Byerly and Ryan on behalf of themselves and on behalf of non-signing inventor Craig. The instant petition accompanied the declaration. Petitioners assert that status under § 1.47(a) is proper because joint inventor Craig refuses to join in the application.

By declaration of patent attorney Daniel Radler, petitioner has shown that the application papers were presented to nonsigning inventor Craig, but he refused to sign the declaration. The petition includes a copy of a letter drafted by inventor Craig's attorney setting forth the conditions for his signature. The petition includes a statement of the last known address of the nonsigning inventor.

The declaration filed July 8, 2004, and the petition 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 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 is currently undergoing pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gordon W. Craig
118 Douvaine Court
Woodlands, TX 77382

COPY MAILED

AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
William Hubiak, Duane Byerly, :
William Ryan and Gordon Craig : LETTER
Application No. 10/887,051 :
Filed: July 8, 2004 :
Atty Docket No. 790063.94621 :
Title: Flexible Coupling Having a :
Center with Opposing Re-entrant :
Folds :

Dear Mr. Craig:

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 (703) 305-0309. 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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.
10/887,055	07/07/2004	John A. deVos	200400940-1	1186

7590 04/14/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
LEIVA, FRANK M

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	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: 04/15/2008 DTERRY
07/13/2004 SZEWDIE1 00000060 082025 10887055
02 FC:1201 258.00 CR
03 FC:1202 378.00 CR

FORM PET651G (Rev. 08/07)

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QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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JUN 0 8 2005

OFFICE OF PETITIONS

In re Application Of:
Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price
Application No. 10/887,062
Filed: July 8, 2004
Attorney Docket No. 6331.00017
Title: AUTOMATIC CARD SHUFFLER

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 7, 2005.

The above-identified application was filed July 8, 2004, without an executed oath or declaration and identifying Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price as the joint inventors. On September 1, 2004, Applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the instant petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, a four-month extension of time in order to make this response timely[2], an unexecuted declaration, two declarations of fact, and copies of several letters. Petitioner has further included a declaration which has been executed by only Mr. Blad.

[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;
(3) a statement of the last known address of the non-signing inventors;
(4) 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;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 The petition contains a certificate of mailing dated March 1, 2005.

Petitioner has met requirements (1) and (2) above.

Petitioner has submitted the last known addresses for Messrs. Thompson, Price, and Price, and has established that a complete copy of the application was sent to these individuals, and each of them has refused to execute the declaration which he has been provided with. However, the petition is silent as to non-signing inventor Hessing. Her last known addresses has not been provided, and it does not appear that Petitioner has made an effort to secure her signature on the declaration. As such, requirements (3) – (5) have not been met for this individual.

Since the last known addresses has not been supplied for Ms. Hessing, it cannot be determined if the address for this individual which appears on the declaration enclosed with this petition is correct. Furthermore, the declaration cannot be accepted since the declaration does not contain signature blocks for the non-signing inventors. See MPEP 409.03(a)[3]. As such, requirement (6) has not been met.

For these reasons, the petition under 37 C.F.R. 1.47(a) must be **DISMISSED**.

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

The renewed petition under 37 C.F.R. §1.47(a) should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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.

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

3 MPEP 409.03(a) sets froth, in part, "An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated."
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (703) 872-9306 - please note this is a central facsimile number.

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SUITE 500 NORTH
LAS VEGAS NV 89109

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JUL 28 2005

OFFICE OF PETITIONS

In re Application Of:
Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price
Application No. 10/887,062
Filed: July 8, 2004
Attorney Docket No. 6331.00017
Title: AUTOMATIC CARD SHUFFLER

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

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed June 30, 2005.

The above-identified application was filed July 8, 2004, without an executed oath or declaration and identifying Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price as the joint inventors. On September 1, 2004, Applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the original petition on March 7, 2005, along with the associated fee, the fee associated with the late filing of an oath or declaration, a four-month extension of time in order to make this response timely, an unexecuted declaration, two declarations of fact, and copies of several letters. Petitioner further included a declaration which was executed only by Mr. Blad.

[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;
(3) a statement of the last known address of the non-signing inventors;
(4) 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;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

The petition was dismissed via the mailing of a decision on June 8, 2005, for failing to include the last known address for Ms. Hessing, as well as the failure to provide a showing of an effort to locate the same.

With this renewed petition, Petitioner has supplied a declaration which has been signed by Ms. Hessing.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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

Paul Shanoski

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

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Thompson Baker
2335 East Springwood Drive
Meridian, Idaho 83642

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JUL 28 2005

OFFICE OF PETITIONS

In re Application Of:
Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price
Application No. 10/887,062
Filed: July 8, 2004
Attorney Docket No. 6331.00017
Title: AUTOMATIC CARD SHUFFLER

LETTER

Dear Mr. Baker:

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: QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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Phil Price
5130 Decatur Drive
Boise, Idaho 83704

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JUL 28 2005

OFFICE OF PETITIONS

In re Application Of:
Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price
Application No. 10/887,062
Filed: July 8, 2004
Attorney Docket No. 6331.00017
Title: AUTOMATIC CARD SHUFFLER

LETTER

Dear Mr. Price:

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: QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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Carl W. Price
13498 W. Annabrook Drive
Boise, Idaho 83713

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JUL 28 2005

OFFICE OF PETITIONS

In re Application Of:
Thompson Baker, Steven J. Blad, Lynn Hessing, Phil Price, and Carl W. Price
Application No. 10/887,062
Filed: July 8, 2004
Attorney Docket No. 6331.00017
Title: AUTOMATIC CARD SHUFFLER

LETTER

Dear Mr. Price:

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: QUIRK & TRATOS
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

12/4/07

In re Application of:
Roy, Loren L. et al.
Serial No.: 10/887,076
Filed: Jul. 7, 2004
Docket: 687-3050/US
Title: STATIC DEVICES AND METHODS TO SHRINK TISSUES FOR INCONTINENCE

DECISION ON PETITION

This is a decision on the petition filed on Jun. 29, 2007 by which petitioner requests review and withdrawal of the restriction requirement mailed Jan. 17, 2007, and that non-elected claims 1-5 be rejoined and examined on the merits. Claims 10-13 and 15 were elected for prosecution. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED**.

A review of the record reveals that on Jan. 17, 2007 the examiner issued a restriction requirement between process and apparatus inventions and further election of species requirement. On Mar. 8, 2007, the applicant elected apparatus invention and species of Figs. 5-5G with traverse. In his election, the applicant traversed only the restriction requirement based on two separate and distinct inventions because the applicant did not believe there was a serious burden of search to examiner to examine the non-elected claims 1-5. On Apr. 3, 2007, the examiner was not persuaded by the applicant's traversal and made the restriction requirement final. On Jun. 29, 2007, the current petition was filed requesting withdrawal of restriction requirement as to the method claims 1-5.

In the petition, petitioner argues that the examiner failed to show the examination of all claims together would place a serious search burden on the examiner. Petitioner is of opinion that the search for the subject matter covered in the claims of both Groups I and II would not place a serious burden on the examiner because it is not uncommon for an examiner to search numerous classes and subclasses when trying to locate pertinent prior art references. Petitioner further argues that even if the claims in the present application are restricted to those in either Group I or Group II, it is likely that the Examiner will search for prior art references in classes and subclasses that are pertinent to both the product and process claims regardless. In the non-final Office action of Apr. 3, 2007, the examiner responded that because the search for the invention of Group I, being a more specific method claim, would require a search in Class 128, subclass

898, and would further require a more narrowed search spectrum to find the more specific method steps.

The examiner stated that the inventions were distinct because the inventions were related as process and apparatus in accordance with MPEP 806.05(e). The restriction requirement is considered proper in that the inventions are distinct for the reasons set forth in the restriction requirement dated Jan. 17, 2007 and each invention would involve a separate search and examination. In the petition, petitioner does not dispute whether or not the inventions are distinct. In the non-final Office action of Apr. 3, 2007, the examiner indicated that a serous burden exists in searching both Groups I and II in that the search for the invention of Group I, being a more specific method claim, would require a search in Class 128, subclass 898, and would further require a more narrowed search spectrum to find the more specific method steps.

In the instant application, the distinctness between the claimed inventions was justified in that the apparatus may be used for a materially different process, such as the treatment of skin tissue. Furthermore, as part of any restriction requirement, the search and examination for each of these two claimed inventions must be considered a serious burden on the examiner if restriction were not required. See MPEP 803[1] and 808.02[2]. Aside from the different classifications indicated in the requirement, the search for the process claims would involve a search in areas such as where assembling methods are found, for example in class 128, etc., which are diverse from the search for the apparatus claims.

Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated Jan. 17, 2007 is in accordance with proper Office procedure. Therefore, the examiner's restriction requirement is proper.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3739 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2)

---

[1] 803 [R-3] Restriction — When Proper ---- Under the statute>, the claims of< an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **> 802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *> 806.05(j)<). If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.

[2] 808.02 [R-5] Establishing Burden Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held. Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following: (A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. (B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search. (C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search. Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

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.

The petition is DISMISSED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Loren L. Roy et al.	:	
Application No. 10/887,076	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. 017761-000970US	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to Mark D. Barris and all attorneys/agents of record has been revoked by the assignee of the patent application on August 18, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Oppenheimer, Wolff & Donnelly, LLP
45 South Seventh Street, Suite 3300
Minneapolis, MN 55402

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

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APR 27 2006
OFFICE OF PETITIONS

In re Application of :
Isamu Tsubono et al :
Application No. 10/887,098 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No. 500.35720CC2

This is a decision on the petition filed, April 26, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3748 for processing of the request for continued examination under 37 CFR 1.114.

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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Paper No.

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

MAILED

SEP 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Bedows et al.	:	
Application No. 10/887,106	:	ON APPLICATION FOR
Filed: July 8, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. NE-0012	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705 filed on April 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred eighty-six (386) days instead of two hundred eighty-one (281) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent. Applicants additionally state that the period of applicant delay as calculated by the applicant is one day more than is calculated by the Office.

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].

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

---

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

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

To the extent that the instant application for patent term adjustment requests reconsideration of the PTA at the time of the mailing of the Notice of Allowance, the request is **dismissed**.

On January 23, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was two hundred eighty-one (281) days. The period of adjustment was 454 days of PTO delay and 173 days of applicant delay.

On April 8, 2009, the subject application for patent term adjustment was timely filed.[2]

Applicant asserts that the 61 day period of reduction for applicant delay in filing a request for continued examination on October 22, 2007, three (3) months and sixty-one days after the mailing of a final Office action on May 22, 2007, is incorrect. Specifically, applicant states that the final Office action was mailed on May 21, 2007, and asserts that the period of reduction should be 62 days, rather than 61 days.

37 CFR 1.704(b) states that with respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant

[2] Office records indicate that the issue fee was paid on April 8, 2009.

of the rejection, objection, argument, or other request and ending on the date the reply was filed.

A review of the record reveals that the final Office action was mailed on May 22, 2007, not on May 21, 2007. The request for continued examination filed on October 22, 2007 was filed three months and 61 days after the mailing of the final Office action. Accordingly, the PALM screen correctly indicated a period of 61 days of applicant delay.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is two hundred eighty-one (281) days (454 days of Office delay reduced by 173 days of applicant delay).

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

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

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

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

MAILED
APR 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,598,356	:	DECISION ON REQUEST
Bedows et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/887,106	:	PATENT TERM ADJUSTMENT
Filed: July 8, 2004	:	and
Atty Docket No. NE-0012	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred forty-six (446) days.[1]

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 four hundred forty-five (445) 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 9, 2007 and ends on October 21, 2007, the day before the RCE was filed, and is 105 (not 106) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 445, not 446 days.

[1] The petition as filed requests correction of the patent term adjustment from 281 days to 387 days. However, the petition omits the 59 day period of adjustment for Office delay pursuant to 37 CFR 1.703(a)(6) for the issuance of the patent four (4) months and 59 days after the date the issue fee was paid. Patentees' argument has been articulated to include this 59 day period of adjustment.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of 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 **four hundred forty-five (445)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,356 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Bedows 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 340 days.

Delete the phrase "by 340 days" and insert – by 445 days--

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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
10/887,114	07/08/2004	2874	2116	017071.0111	23	78	5

CONFIRMATION NO. 2221

CORRECTED FILING RECEIPT

OC000000015022561

05073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Date Mailed: 01/25/2005

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)

Makiko Hisatomi, Ipswich, UNITED KINGDOM;
Michael Charles Parker, Colchester, UNITED KINGDOM;
Stuart Douglas Walker, Colchester, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number **05073**.

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM GB0316306.0 07/11/2003

If Required, Foreign Filing License Granted: 08/31/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/887,114

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Fresnel zoned microstructured fibre and lens

Preliminary Class

385

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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JJGJR.: 02-05

Paper No. __

PATTON BOGGS, L.L.P.
2001 ROSS AVENUE/SUITE 3000
DALLAS TX 75201

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OFFICE OF PETITIONS

In re Application of	:	
Tsypin	:	
Application No. 10/887,138	:	DECISION ON PETITION
Filed: 7 July, 2004	:	
Attorney Docket No. 021607.0105PTUS	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed on 20 December, 2004, requesting that the above-identified application, without drawings, be accorded a filing date of 7 July, 2004.

The petition is **GRANTED in part** and **DISMISSED in part**.

The application was filed on 7 July, 2004, without drawings.[1]

Accordingly, on 19 October, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, Petitioner filed the instant petition on 20 December, 2004.

Petitioner states that the instant application as filed contains the following statement: "[t]his application claims the benefit of an priority to U.S. Provisional Application No. 60/485,632, filed July 7, 2003, which is hereby incorporated by reference."

[1] The provisions of 35 U.S.C. §113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

What Petitioner does not state, but is obvious from an inspection of the record, is that the application contains one or more method or process claims (e.g., Claims 1 - 2).

It has been Office 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).[2] As indicated above, a review of the record reveals that one or more claims (e.g., Claims 1 and 2) are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is **granted** to the extent that the application shall be accorded a filing date of 7 July, 2004, without drawings as an application containing one or more method/process claims; in all other respects the petition is **dismissed**.

The "Notice of Incomplete Nonprovisional Application" mailed on 19 October, 2004, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

The application will be processed and examined using only the application papers filed on 7 July, 2004. While Petitioner seeks to depend upon the incorporation by reference to bring into the application the single drawing (Fig. 1) referenced from the provisional application, that is a matter for amendment–properly a preliminary amendment, which it appears that Petitioner filed with the instant petition–and consideration of amendment is the province of the Examiner. And this process requires no petition.

The Examiner shall review, during the examination process, the sufficiency of the showing made as it relates to the "Preliminary Amendment" to ensure that the inclusion of Fig. 1 sought to be incorporated by reference would present no new matter.

Since the petition was necessitated by an error on the part of the Office, the petition fee is waived, and it appears that none was charged.

The application is being forwarded to OIPE for further processing with a filing date of 7 July, 2004, using only the application papers present on filing, and OIPE is instructed to issue a filing receipt reflecting a filing date of 7 July, 2004, and that "0" drawings were present on filing.

---

[2] MPEP 601.01(f).

Telephone inquiries specific to this matter should be directed to the undersigned at 272-3214.

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

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HUGH MCTAVISH
MCTAVISH PATENT FIRM
429 BIRCHWOOD COUTTS
BIRCHWOOD, MN 55110

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DEC 0 8 2006
OFFICE OF PETITIONS

In re Application of
Lori J. Herman
Application No. 10/887,151.
Filed: July 8, 2004
Attorney Docket No. 112.002US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 11, 2006.

The request is **APPROVED**.

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

The request was signed by Hugh McTavish on behalf of all attorneys of record who are associated with this application.

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

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed June 5, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LORI J. HERMAN
4338 6TH ST NW
ROCHESTER, MN 55901

cc: STEVEN MCMASTER
MAYO FOUNDATION FOR MEDICAL
EDUCATION AND RESEARCH
CENTERPLACE 4, 200 FIRST STREET SW
ROCHESTER, MN 55905

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/887,151	07/08/2004	Lori J. Herman	112.002US1

CONFIRMATION NO. 1840

OC000000021524642

OC000000021524642

Hugh McTavish
McTavish Patent Firm
429 Birchwood Courts
Birchwood, MN 55110

Date Mailed: 12/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Paper No.

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

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Scott Shaw :
Application No. 10/887,152 :
Filed: July 7, 2004 :
Atty Docket No. 708493.4016 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed October 3, 2005. Given the evidence on petition, the petition is being treated as a petition under § 1.181 to withdraw the holding of abandonment.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the non-final Office action mailed January 25, 2005. The Office action set a three-month shortened statutory period for reply with extensions of time obtainable under § 1.136(a). No reply being considered filed and no extension considered obtained, the application became abandoned effective April 26, 2005. A Notice of Abandonment was mailed on September 22, 2005.

In response, applicants timely filed the instant petition. Petitioner states that the delay was unavoidable. Petitioner states that applicant's attorney mailed an Amendment Transmittal, Amendment and Response along with a return postcard on May 13, 2005. In support thereof, applicants submit copies

of the papers filed, along with a copy of the return postcard indicating receipt of the responses by the Office on May 17, 2005.

Petitioner's evidence is persuasive that a proper response was timely filed. The postcard supports a conclusion that an amendment transmittal, and amendment and response were received in this application on May 17, 2005. A review of the amendment and response further reveals that the papers included a certificate of mailing dated May 13, 2005. Moreover, the response included payment by Deposit Account of an extension of time for response within the first month, along with an authorization to charge any required fee to the Deposit Account.

In view of the timely receipt of the response, withdrawal of the holding of abandonment is warranted.

Since consideration of the petition under 1.137(a) is unnecessary, the petition fee of $500 is being refunded to Deposit Account No. 15-0665, as authorized.

The Technology Center has been advised of this decision. The application file is, thereby, forwarded to the examiner for consideration of the amendment originally timely filed on May 17, 2005 (and resubmitted on petition filed October 3, 2005).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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LOS ALAMOS NATIONAL SECURITY, LLP
LOS ALAMOS NATIONAL LABORATORY
PPO BOX 1663, LC/IP, MS A187
LOS ALAMOS, NM 87545

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OFFICE OF PETITIONS

In re Application of	:	
Neil Harrison et al	:	
Application No. 10/887,153	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. S-100,618	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 6, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 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 Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2826 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.

Irvin Dingle
Petition 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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Kenneth Alexander Gragg
6935 SE 72nd Terrace
Riverton, KS 66770

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of
Kenneth Alexander Gragg
Application No. 10/887,169
Filed: July 7, 2004
Attorney Docket No.

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed on October 23, 2007.

The petition is **DISMISSED**.

The record reflects that a final Office action was mailed on March 1, 2007, allowing a shortened statutory period for reply of three months from its mailing date. On May 30, 2007, an amendment after final Office action was filed. A Notice of Abandonment was mailed on October 3, 2007.

Petitioner maintains the imposition of the holding of abandonment was improper because the examiner assigned to the application provided no feedback, i.e., Advisory Action, on the amendment filed May 20, 2007, and allegedly did not respond to any of the telephone calls placed by the applicant.

It is first noted that the amendment after final was not filed within two months of mailing date of the final Office action, therefore, adjustments that may have been available pursuant to *MPEP* 710.01 are not available in this instance. Further, while the Office encourages the examiner to issue the Advisory Action promptly, circumstances may arise that prevent the most expeditious processing of the amendment. The failure of the examiner to meet the ideal processing goal does not excuse the applicant from taking other measures to avoid the abandonment of the application should the examiner determine that the amendment filed does not place the application in condition for allowance. Certainly, applicant could have filed a Notice of Appeal or Request for Continued Examination with the amendment after final with the instruction that the Notice of Appeal or Request for Continued Examination should only be processed in the event that the amendment after final is not entered. Applicants are charged with a filing a proper and timely response to all Office actions issued. If a reply filed the applicant is determined to be improper, such does not toll any time period running against the application. The holding of abandonment was properly imposed because a proper response to the final Office action was not filed within the maximum statutory period for reply.

The petition is dismissed, accordingly[1].

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1540.00 for a large entity and $770.00 for a verified small

[1] Petitioner is advised that the undersigned consulted with a supervisor in the Office of Petitions as to the disposition of this petition prior to rendering this decision.

entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Enclosure: FormPTO/SB64

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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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Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

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OCT 2 0 2005

Director's Office
Group 3700

In re Application of
Terry Lievestro, et al.
Serial No. 10/887,189
Filed: July 8, 2004

DECISION ON PETITION TO MAKE SPECIAL

For: PROGRESSIVE CAVITY PUMP/MOTOR STATOR, AND APPARATUS AND METHOD TO MANUFACTURE SAME BY ELECTROCHEMICAL MACHINING

Applicant's petition, filed June 24, 2005, seeks to have this application made special based upon the Energy Conservation Program.

The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 10/19/05

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Garry W. Burns	: DECISION ON REQUEST FOR
Patent Number	: 7578106	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 05/19/10

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10887227 Patent No.: 7718671

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.

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

Comments: _____

/Janet L. Andres/ 1625
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 07/13/10

Patent No.: 7718671 B2
Application No: 10/887,227
Issued : May 18, 2010
Inventor : PHADKE, AVINASH
Title : **SUBSTITUTED ARYLTHIOUREA DERIVATIVES USEFUL AS INHIBITORS OF VIRAL REPLICATION**

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction, for the above-identified patent under the provision of Rule 1.322 or 1.323.

Respecting the alleged error in the total number of claims, comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy.
Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 and the Code of Federal Regulation (C.F.R.) R 1.322 or R 1.323.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

LMN/MD

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JUL 18 2008

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of	:	
Servant, et al.	:	
Application No. 10/887,233	:	ON PETITION
Filed: February 28, 2002	:	
Attorney Docket No. 67824.431501	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 16, 2008.

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

The application was held abandoned due to failure to timely file a proper reply to the non-final Office action mailed January 12, 2007. This Office action set an extendable period for reply of one month. Applicant filed a reply on February 12, 2007. However, in a Notice of Non-Compliant Amendment mailed May 1, 2007, the Office informed applicants that the reply was not fully responsive, and therefore would not be entered. The Notice informed applicants that the period for reply continued to run from the mailing date of the January 12, 2007 Office action. No further reply with an extension of time having been received, the application became abandoned on February 13, 2007. The Office mailed a Notice of Abandonment on May 30, 2007.

Petitioner asserts that he didn't receive the May 1, 2007 Notice of Non-Compliant Amendment. Petitioner asserts that had it been received, a due date of July 12, 2007 would have been entered in the firm's docketing system

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a proper master docket report, showing all of his replies docketed for the due date of July 12, 2007. An entry for the instant application is absent, supporting the conclusion that the Notice of Non-Compliant Amendment was not received. In addition, petitioner has stated that the Notice was not received, and attested to the fact that he searched the file jacket and docket records.

The matter is being forwarded to Group Art Unit 1646 for consideration of the "Response to Notice of Non-Compliant Amendment", filed June 16, 2008.

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

Cliff Congo
Petitions Attorney

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

Mail Date: 04/21/2010

Applicant	: Geoffrey B. Rhoads	: DECISION ON REQUEST FOR
Patent Number	: 7570781	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,242	: OF WYETH
Filed	: 07/07/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Munck Carter/NSC
P.O. Drawer 800889
Dallas TX 75380

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JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
HEE WONG :
Application No. 10/887,243 :
Filed: 07/08/2004 :
Docket No. P06012 (NATI15-06012) :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 9, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 281 days, not 63 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

---

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OCT 18 2007

TECHNOLOGY CENTER 3600

ERICKSON & KLEYPAS, L.L.C.
800 W. 47th Street, Suite 401
Kansas City, Missouri 64112

In re Application of
William L. Henry et al
Application No. 10/887,293
Filed: July 8, 2004
For: PROXIMITY DETECTION AND COMMUNICATION MECHANISM AND METHOD SYSTEM

DECISION ON THE PETITION UNDER 37 CFR 1.144

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on October 17, 2006.

The petition is **GRANTED**.

BACKGROUND

A thorough review of the file reveals that a restriction/election under MPEP § 806.05(e) – Process and Apparatus for its Practice - was mailed to applicant on May 30, 2006.

I. Claims 1-23, drawn to an apparatus (position sensing mechanism), classified in class 246, subclass 415.
II. Claims 24-33, drawn to a process (method for determining and communicating), classified in class 701, subclass 19.

A species election:
A. Embodiment of figures 1-5,
B. Embodiment of figure 6.

And a single species election requirement:
a. Elect the number of proximity sensors (e.g., one sensor or four sensors only).

Applicant on April 24, 2006 elected with traverse to prosecute invention II, species A and a (single sensor). Applicant within his comments argued that inventions I and II were linked and . that search conducted by the examiner of invention I and II would be the same not be burdensome.

Applicant did not argue the election requirement between species A and B. Applicant did argue the single species election requirement set forth by the examiner citing that the examiner did not properly provide reasoning for the election under MPEP § 808.02.

The non-Final Office action of August 24, 2006 addressed applicant's traversal of the restriction/election and withdrew non-elected claims as being drawn top non-elected invention species with traverse. In replying to the traversal of the restriction/election requirement the examiner stated:

> The traversal is on the ground(s) that the species election requiring the election of one, two, three, or four sensors are improper. Applicant traversed by citing that the examiner did not set forth separate classification, status in the art or different search.
>
> This is not found persuasive because as previously set forth the single species requirement is merely an aid to the examiner in examining the claims when various embodiments are identified within a generic claim. If applicant's election of one sensor is found to be allowable, then the non-elected species are rejoined and examined.
>
> Claims are never species, embodiments are species (MPEP 806.04(e)). With regard to separate classification, status in the art or different search, the examiner considers the embodiments to have mutually exclusive characteristics. Applicant can admit on the record that the species are obvious variants over one another and the election requirement will be withdrawn.
>
> The requirement is still deemed proper and is therefore made FINAL.

PETITION

Applicant's petition states the following: (1) that the search of inventions I and II are linked and that a search of invention I and II would not be burdensome, (2) the species requirement is improper under MPEP § 808.02, and (3) that the apparatus claims of Group I and the method claims of Group II are similar in subject matter, namely the apparatus claims generally claim the apparatus for determining and communicating the relative position of a first member to a second member (such as rail members) and the method claims generally claim a method for determining and communicating the relative position of the members using apparatus which could include the apparatus claimed in the apparatus claims.

> <u>MPEP § 809 Linking Claims</u>
>
> There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the claims of the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) **>which, if allowable, would require rejoinder of the otherwise divisible inventions. See MPEP § 821.04 for information pertaining to rejoinder practice.<
>
> Linking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions). The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and

(B) subcombination claims linking plural combinations.

Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required.
The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or requires all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability. See MPEP § 821.04 for additional information regarding rejoinder.

Regarding statements (1) – (3) the classification presented by the examiner is improper. A review of the class definitions reveals that 340/438+ is the most relevant area wherein the invention II can be classified. While separate classification is noted within the art. It is noted that inventions I and II are linked. That is the "step of" language in the process claim links the apparatus and process together. Thus, restriction is not proper.

In addition the single species requirement (i.e., electing the number of sensors) is deemed improper. It would appear from applicant's claim language that the claims are actually broader than the enabling disclosure (i.e., at least one sensor). The embodiments of figures 1-5 (species A) and figure 6 (species (B) clearly show only four sensors.

The restriction between inventions I and II and the single species requirement between the number of sensors is deemed **improper** for the reasons set forth above.

The Species election between species A (figures 1-5) and species B (figure 6) is deemed **proper**.

SUMMARY: The petition is **GRANTED**.

The Final rejection is deemed to have been incomplete given the decision regarding the restriction, above. As a result the Final rejection of April 19, 2007 is hereby **VACATED**. The application will be forwarded to the examiner of record to issue a new non-final Office action treating claims 1-33 on the merits.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith at 571-272-6878

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DTH/snm: 10/16/07

SM

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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of

Jens Lehmann et al.
Application No. 10/887,322
Filed: July 9, 2004
Attorney Docket No. 449122074700

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 25, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record. 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 no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Jens Lehmann**
Kochstr. 19
Falkensee, 14612
Germany

cc: **Bell, Boyd & Lloyd LLC**
Attn: Kevin R. Spivak
70 West Madison Street, Suite 3100
Chicago, IL 60602-4207

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/887,322	07/09/2004	Jens Lehmann	449122074700

CONFIRMATION NO. 1150

OC000000026010857

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

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

Yesi Williams

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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Chikashi Okamoto	: DECISION ON REQUEST FOR
Patent Number	: 7590842	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,334	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1405** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 29 2008

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction for Appl. No 10/8872342 patent no7237270

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

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

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

Magdalene Talley

_____

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ **SPE** _____ **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

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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MAY 29 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Tofy Mussivand	:	
Application No. 10/887,352	:	
Filed: July 9, 2004	:	
Attorney Docket No. 18455-1US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed March 1, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on April 2, 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 1651 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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FEB 22 2008

In re Application of	:	
Udayan Mukherjee et al	:	
Application No. 10/887,368	:	DECISION GRANTING PETITION
Filed: July 6, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 042390.P12744	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 2, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2113 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
MOLLY A. MCCALL
INTELL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

---

[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 Guy
NEXSEN PRUET ADAMS KLEEMEIER LLC
P.O. Box 10107
Greenville SC 29603

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Application of
Page
Application No. 10/887,404
Filed: July 8, 2004
Attorney Docket No. 35564-4
For: REMOTE MONITORING SYSTEM FOR WATER

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2008, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appropriate follow-up submission to the Notice of Appeal, filed February 25, 2008, within two (2) months of the filing of the Notice of Appeal. As an appropriate follow-up submission was not filed within two (2) months of the filing of the Notice of Appeal, filed February 25, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 26, 2008. *See* MPEP 1215.04.

Applicant has submitted a proper reply in the form of an RCE and required fee and a request to use an amendment previously filed on January 28, 2008 as the submission, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the Notice of Appeal, and the petition fee.

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.

The petition is **GRANTED**.

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.

After the mailing of this decision the application will be forwarded to Technology Center AU 1797 for consideration of the RCE filed on November 4, 2008.

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: Joseph T. Guy. Ph.D.
NEXSEN PRUET, LLC
P.O. BOX 10648
Greenville SC 29603

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-25-09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/887461 Patent No.: 7382190

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

FOR IFW FILES: Should Drawings be approved

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

Connie Yard
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: _____

_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-25-09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/887461 Patent No.: 7382190

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

FOR IFW FILES: Should Drawings be approved

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

Ernie 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: _____

[signature]
SPE

2817
Art Unit

Petition to accept color drawings approved. 11/21/06

382.1029CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re:	Application of:	SHINOZAKI, et al.
	Serial No.:	To Be Assigned
	Filed:	Herewith
	For:	**ENVIROMENTAL STRESS TOLERANT PLANTS**
	Examiner:	David H. Kuse (Presumed)
	Group Art Unit:	1638 (Presumed)

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

July 8, 2004

PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. § 1.84(a)(2)

S I R:

Pursuant to 37 C.F.R. § 1.84(a)(2), Applicants petition the Commissioner for Patents to accept color drawings of Figs. 5, 6, 8A, 8B, 9A, 9B, 10, 13 and 15 in the above-identified application. Pursuant to 37 C.F.R. § 1.84(a)(2), three (3) color photo copies of each of the drawings sheets containing Figures 5, 6, 8A, 8B, 9A, 9B, 10, 13 and 15 are submitted herewith, along with the required $130.00 fee due under 37 C.F.R. § 1.17(h). Also enclosed is a black and white photocopy of each of the drawing sheets containing these figures, as required by 37 C.F.R.. § 1.84(a)(2).

Color drawings are necessary in order to accurately depict the subject matter of the present patent application. Applicants respectfully request that the color drawings be accepted for this application.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL

By: Morey Wildes
Morey B. Wildes
Reg. No. 36,968

07/14/2004 HMARZI1 00000075 10664741
01 FC:1460 130.00 OP
07/14/2004 HMARZI1 00000083 10887475
01 FC:1460 130.00 OP

DAVIDSON, DAVIDSON & KAPPEL
485 Seventh Avenue, 14th Floor
New York, NY 10018
(212) 736-1940

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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DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of:	:	
Hermkens et al.	:	
Application No. 10/887,484	:	DECISION DISMISSING
Filed: July 8, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
METHOD FOR MANUFACTURING A	:	
SEQUENTIAL BACKPLANE	:	

This decision is in response to the Petition for Filing by Other Than all the Inventors, filed January 25, 2005, 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 properly treated under 37 CFR 1.47(a),

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 8, 2004, without a fully executed oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on August 23, 2004, requiring, *inter alia*, a fully executed signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition and declaration of inventors wherein the inventor's information for the nonsigning inventor has been lined through and the words "not applicable" written into his signature block.

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

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manuel for Patent Examining Procedure 409.03(a), At Least One Joint Inventor Available, provides:

> 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:
>
> > (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. *An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.*

Applicant must list the full name, residence, post office address, and citizenship of the all inventors, signing and/or nonsigning, on the Declaration, and have the declaration executed by the available joint inventors. A properly executed oath or declaration is required.

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

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

By facsimile: (703) 308-6916
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/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 13 2005

OFFICE OF PETITIONS

DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

In re Application of:	:	
Hermkens et al.	:	
Application No. 10/887,484	:	DECISION GRANTING
Filed: July 8, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
METHOD FOR MANUFACTURING A	:	
SEQUENTIAL BACKPLANE	:	

This is in response to a Petition Under 37 CFR 1.47, filed April 18, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Peter J.M. Thoolen, 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 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 returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
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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PETER J.M. THOOLEN
HOOGSTRAAT 9
6102 XR ECHT
THE NETHERLANDS

In re Application of: :
Hermkens et al. :
Application No. 10/887,484 :
Filed: July 8, 2004 :
Title of Invention: :
METHOD FOR MANUFACTURING A :
SEQUENTIAL BACKPLANE :

COPY MAILED

MAY 13 2005

LETTER

OFFICE OF PETITIONS

Dear Mr. Thoolen:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

COLLEN IP
THE HOLYOKE MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

In re Application of	
LAROCCA, Meloni M.	
Application No. 10/887,485	DECISION ON PETITION
Filed: July 08, 2004	TO WITHDRAW
Attorney Docket No. **90345**	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 28, 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 Donald J. Ranfit on behalf of all attorneys of record who are associated with customer No. 34440. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Meloni M. LaRocca at the address indicated below.

There is an outstanding Office action mailed April 26, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MELONI M. LAROCCA**
78 WHARTON DRIVE
CORTLANDT MANOR, NY 10567

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
10/887,485	07/08/2004	Meloni M. LaRocca	90345

CONFIRMATION NO. 2283

OC000000025711029

34440
COLLEN IP
THE HOLYOKE MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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KILYK & BOWERSOX, PLLC
3603 CHAIN BRIDGE ROAD
SUITE E
FAIRFAX, VA 22030

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of :
Mark F. Oldham, et. al. :
Application No. 10/887,486 : ON PETITION
Filed: July 8, 2004 :
Attorney Docket No. 5010-003-04 :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 10, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 16, 2007. A Notice of Abandonment was mailed on July 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $15 for five (5) soft copies submitted on August 10, 2007.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Steven B. Lindsay	: DECISION ON REQUEST FOR
Patent Number	: 7644194	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/887,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD KRASS SPRINKLE
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

COPY MAILED

OCT 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephen Forbes Pearson	:	
Application No. 10/887,520	:	DECISION ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. CAF-32602/03	:	

This is a decision on the petition, filed August 10, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 16, 2005, which set a three (3) month shortened statutory period for reply. Two month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before April 16, 2006.

Office record show a timely reply was received on April 4, 2006, which included the following papers: Request for Continued Examination (RCE); amendment and two month extension of time.

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 November 16, 2005 is hereby withdrawn and the application restored to pending status.

The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

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

This application is being referred to Technology Center AU 3744 for appropriate action in the normal course of business on the reply received April 4, 2006.

Irvin Dingle
Petitions Examiner
Office of Petitions

PTO/SB/64 (08-09)
Approved for use through 07/31/2009. 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) CAF-32602/03

First named inventor: Stephen F. Pearson

Application No: 10/887,520-Conf. #2071 Art Unit: 3744

Filed: July 8, 2004 Examiner: M. M. Ali

Title: IMPROVED TRANSCRITICAL REFRIGERATION CYCLE

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 the reasons as outlined in the attached Statement of Facts Accompanying Petition Under 37 CFR 1.137 for the Revival of an Abandoned Patent Application.

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 RCE (identify type of reply):

☒ has been filed previously on April 4, 2006.

☐ is enclosed herewith.

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

☐ has been paid previously on _____

☐ is enclosed herewith.

Adjustment date: 10/29/2009 CKHLOK
03/11/2009 INTEFSW 00001407 10887520
01 FC:1453 -1620.00 OP

Refund Ref:
10/29/2009 0030076136

Credit Card Refund Total: $1620.00

Master C: XXXXXXXXXXXX7027

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

[X] 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.

/Ronald W. Citkowski/	August 10, 2009
Signature	Date
Ronald W. Citkowski	31,005
Typed or printed name	Registration Number, if applicable
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C. 2701 Troy Center Drive, Suite 330 Post Office Box 7021 Troy, Michigan 48007-7021	(248) 647-6000
Address	Telephone Number

Enclosures:

[X] Fee Payment

[ ] Reply

[ ] Terminal Disclaimer Form

[ ] Additional sheets containing statements establishing unintentional delay

[ ] Other: _____

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/27/09

2 Serial/Patent # 10/887,520

	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 1453		08/10/09	$ 1,620.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

Credit Card

7 TOTAL AMOUNT OF REFUND $ 1,620.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

The petition filed 8/10/09 is being treated as a petition to withdraw holding of abandonment under 1.181 (no fee).

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Irvin Dingle TITLE: Paralegal

SIGNATURE: [signature] PHONE: 2-3210

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 10/29/09

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)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/887,521	:	TO WITHDRAW
Filed: July 7, 2004	:	FROM RECORD
Attorney Docket No. XW-704	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 30, 2005, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that Howard J. Greenwald and the attorneys associated with Customer Number 37282: (1) does not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. The attorneys associated with Customer Number 37282 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

David Bucci for
Petitions Examiner
Office of Petitions

cc:

XINGWU WANG
1886 EAST DRIVE
WELLSVILLE, NY 14895

NANOSET LLC
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/887,521	:	TO WITHDRAW
Filed: July 7, 2004	:	FROM RECORD
Attorney Docket No. 1008 067 301 0251	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

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

A review of the file record indicates that the power of attorney to practitioners, Duane C. Basch and Michael J. Nickerson were revoked by the assignee of the patent application on February 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PARK & SUTTON LLP
3255 WILSHIRE BLVD
SUITE 1110
LOS ANGELES, CA 90010

In re Application of	:
Gyoung Il Cho, et al.	:
Application No. 10/887,536	:DECISION ON REQUEST TO
Filed: July 8, 2004	:WITHDRAW AS ATTORNEY
For: **3D TELEVISION BROADCASTING SYSTEM**	:

This is a decision on the request to withdraw as attorney/agent of record filed on January 5, 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.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney requesting withdraw is not of record due to a Revocation of Power of Attorney filed June 3, 2005.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DW sep-09

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

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Tondreau et al. :
Application Number: 10/887538 : ON PETITION
Filing Date: 07/08/2004 :
Attorney Docket Number: :
063170.6949 :

This is a decision in reference to the "NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT," filed on April 9, 2009.

The petition is **dismissed**.

This application became abandoned on October 6, 2008, for failure to timely submit an appeal brief in response to the Notice of Appeal mailed on August 5, 2008, which set a two (2) month shortened period for reply. On August 14, 2008, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, stating that the application remains under appeal, and that applicant is required to submit an appeal brief within one month from the mailing of the decision, or the balance of the two (2)-month time period running from the receipt of the notice of appeal, whichever is greater.

Petitioner asserts that the Notice of Panel Decision was never received. In support, petitioner's registered patent practitioner, Luke K. Pedersen, states that he has performed a search of the file jacket and all of its contents, and the results of the search revealed that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was not in the file jacket.

A review of the record indicates no irregularity in the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Panel

Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month**

> **period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> (emphasis added)

It is noted that petitioner has provided a copy of the docket report for the application as well as a copy of the firm's docket report.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Specifically, petitioners have completely obscured all identifying information on the four (4) pages of docket report presented. While the Office is mindful that petitioners may wish to redact certain information to safeguard clients' privacy, at least **some** of the information contained in the docket report (*e.g.*, the docket number, application number, or other information) must be legible such that the Office may verify that the subject Notice of Panel Decision from Pre-Appeal Brief Review was not docketed. The showing of record, however, does not provide the requisite documentary proof of non-receipt of the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008.

Petitioners should submit, with a renewed petition, a master docket report showing where the non-received Notice of Panel Decision from Pre-Appeal Brief Review would have been entered had it been received and docketed. The docket report must be attached to and referenced in practitioner's statement.

Accordingly, the petition is dismissed without prejudice to reconsideration pending submission of the information requested above.

Any request for reconsideration of this decision must be

submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[1]

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

[1] 37 CFR 1.181(f).

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 Nov-09

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

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NOV 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Tondreau et al.	:	
Application Number: 10/887538	:	ON PETITION
Filing Date: 07/08/2004	:	
Attorney Docket Number:	:	
063170.6949	:	

This is a decision in reference to the "NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT," filed on October 8, 2009.

The petition is **GRANTED**.

This application was held abandoned abandoned on October 6, 2008, for failure to timely submit an appeal brief in response to the Notice of Appeal mailed on August 5, 2008, which set a two (2) month shortened period for reply. On August 14, 2008, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, stating that the application remains under appeal, and that applicant is required to submit an appeal brief within one month from the mailing of the decision, or the balance of the two (2)-month time period running from the receipt of the notice of appeal, whichever is greater. On April 3, 2009, Notice of Abandonment was mailed. On April 9, 2009, an initial petition to withdraw the holding of abandonment was filed. On September 14, 2009, the petition was dismissed.

Petitioners again assert that the Notice of Panel Decision was never received. In support, petitioners' registered patent

practitioner, Luke K. Pedersen, states that he has performed a search of the file jacket and all of its contents, and the results of the search revealed that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was not in the file jacket. A copy of both the file wrapper history and the master docket report showing where the non-received Notice would have been entered, had it been received and docketed, is enclosed with the petition. Petitioners' counsel further notes that the master docket shows that counsel's office is awaiting receipt the Notice of Panel Decision from Pre-Appeal Brief Review. Accordingly, the Notice of Panel Decision from Pre-Appeal Brief Review was not received.

A review of the record indicates no irregularity in the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording

> an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> (emphasis added)

Petitioners have made a sufficient showing that the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 14, 2008 was not received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby <u>vacated</u> and the holding of abandonment <u>withdrawn</u>.

Receipt of the request for continued examination (RCE) and submission under 37 CFR 1.114 filed on April 9, 2009 is acknowledged.

The petition is **GRANTED.**

As a reply has been filed, there is no need to remail the Notice mailed on August 14, 2008. Accordingly, the application is forwarded to Technology Center Art Unit 2192 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

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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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

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AUG 0 8 2005

OFFICE OF PETITIONS

Applicant: Seyfried et al.
Appl. No.: 10/887,539
Filing Date: July 8, 2004
Title: DETECTION DEVICE
Pub. No.: US 2005/0012927 A1
Pub. Date: January 20, 2005

This is a decision on the request for a corrected patent applications publication under 37 CFR 1.221 (b), filed on April 25, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the translation of the priority document filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on April 25, 2005, was not timely filed under 37 CFR 1.221 (b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
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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9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES, CA 90069

Mail Date: 04/21/2010

Applicant	: Chris Raff	: DECISION ON REQUEST FOR
Patent Number	: 7584412	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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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
10/887,560	07/08/2004	3679	678	10292-00004	4	43	5

CONFIRMATION NO. 7715

CORRECTED FILING RECEIPT

OC000000014187997

21918
DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON, VT 05402-0190

Date Mailed: 10/26/2004

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)

Joseph M. Rich, Jericho, VT;
Jeffrey A. Goodwin, Jericho, VT;
Robert J. Moore II, Westford, VT;

Assignment For Published Patent Application

Fab-Tech, Inc., Colchester, VT

Power of Attorney: None

Domestic Priority data as claimed by applicant

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 US10/887,560

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Segmented conduit having a monolithic lining

Preliminary Class

285

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/24/09

TO SPE OF : ART UNIT 3679- Aaron Dunwoody

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/887,560 t No.: 7,264,279---

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

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
703 756-1572

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: _____

Daniel P Stodola — SPE

3679 — Art Unit

PAGE 1/1 * RCVD AT 6/30/2009 11:09:40 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/29 * DNIS:2709754 * CSID:308 2571 * DURATION (mm-ss):01-06

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EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Domingo Rohde, et al.	:	
Application No. 10/887,581	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. N81761DPS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 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 February 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 26, 2007. Accordingly, the date of abandonment of this application is February 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571)272 - 4914.

This application is being referred to the Office of Data Management for processing into a patent.

for

David Bucci
Petitions Examiner
Office of Petitions

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Paper No.

SALIWANCHIK LLOYD &
SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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JUL 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Beerelli Seshi	:	
Application No. 10/887,582	:	LETTER REGARDING
Filed: July 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. USF-T170C3X	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed April 30, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the patent term adjustment indicated on the initial determination of patent term adjustment should be corrected from four hundred two (402) days to three hundred eight (308) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred two **(302)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 11, 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 402 days. Applicants disclose that a period of adjustment of 94 days should have been entered for the filing of a supplemental amendment on December 29, 2007.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, in response to the non-final rejection mailed June 26, 2007, on September 26, 2007, applicants filed a response. A review of the record confirms that thereafter, on December 29, 2007, applicants filed a supplemental amendment. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 94 days should have been entered.

A review of the record reveals a further basis for entry of a period of reduction. In response to the restriction requirement mailed December 8, 2006, on January 8, 2007, applicants filed a response. Thereafter, on March 2, 2007, applicants filed an Information Disclosure Statement (IDS) and on March 8, 2007, applicants filed an amendment. A period of reduction of 53 days was entered for the filing of the IDS. However, no period of reduction was entered for the filing of the amendment. Pursuant to § 1.704(c)(8), an additional period of reduction of 6 days should have been entered for the filing of the amendment on March 8, 2007.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is THREE HUNDRED TWO (302) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants

for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

Day : Tuesday
Date: 7/29/2008

PALM INTRANET

Time: 21:53:15

PTA Calculations for Application: 10/887582			
Application Filing Date:	07/09/2004	PTO Delay (PTO):	455
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	53
Post-Issue Petitions:	0	Total PTA (days):	302
PTO Delay Adjustment:	-100		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	07/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
85	07/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		94	
59	01/11/2008	MAIL NOTICE OF ALLOWANCE			
58	01/11/2008	MAIL EXAMINER'S AMENDMENT			
57	12/27/2007	ISSUE REVISION COMPLETED			
56	12/27/2007	DOCUMENT VERIFICATION			
55	12/27/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
54	12/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	12/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
52	12/26/2007	EXAMINER'S AMENDMENT COMMUNICATION			
51	12/26/2007	NOTICE OF ALLOWABILITY			
50	10/16/2007	DATE FORWARDED TO EXAMINER			
49	09/26/2007	RESPONSE AFTER NON-FINAL ACTION			
48	06/26/2007	MAIL NON-FINAL REJECTION			
47	06/22/2007	NON-FINAL REJECTION			
46	03/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	11/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	05/03/2007	DATE FORWARDED TO EXAMINER			
43	04/27/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
35	04/04/2007	MAIL RESTRICTION REQUIREMENT			
34	03/30/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
33.7	03/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		53	29

33	03/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	03/08/2007	PRELIMINARY AMENDMENT			
31	01/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
30	01/18/2007	DATE FORWARDED TO EXAMINER			
29	01/08/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	12/08/2006	MAIL RESTRICTION REQUIREMENT	455		-1
27	12/07/2006	MAIL-PETITION DECISION - GRANTED			
26.7	11/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	11/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	10/02/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
24	11/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	11/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22.7	11/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	11/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/05/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	11/01/2004	REFERENCE CAPTURE ON IDS			
19.7	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/18/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
17	10/18/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
16	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	10/18/2004	PETITION ENTERED			
14	12/02/2004	APPLICATION RETURN FROM OIPE			
13	12/02/2004	APPLICATION RETURN TO OIPE			
12	12/01/2004	APPLICATION DISPATCHED FROM OIPE			
11	12/02/2004	APPLICATION IS NOW COMPLETE			
10	10/18/2004	ADDITIONAL APPLICATION FILING FEES			
9	10/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC			

		115, OATH OF THE APPLIC			
8	10/18/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	10/15/2004	CORRESPONDENCE ADDRESS CHANGE			
6	08/24/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	08/19/2004	CLEARED BY OIPE CSR			
3	08/19/2004	CASE CLASSIFIED BY OIPE			
2	07/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/09/2004	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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Allan R. Penda	: DECISION ON REQUEST FOR
Patent Number	: 7596954	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **652** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN, TX 78705

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Stuart A. Tison, et al.	:	
Application No. 10/887,591	:	DECISION ON PETITION
Filed: July 9, 2004	:	TO WITHDRAW
Attorney Docket No. C2044-9001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 27, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sprinkle IP Law Group has been revoked by the assignee of the patent application on June 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT A. SKRIVANEK, Jr.
LOWRIE, LANDO & ANASTASI, LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET'
ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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FAY SHARPE LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland OH 44115

In re Application of:
ARIK, MEHMET et al
Serial No. 10/887,601
Filed: July 9, 2004
Docket: 146604/GLOZ200213
Title: LIGHT EMITTING CHIP APPARATUSES WITH A THERMALLY SUPERCONDUCTING HEAT TRANSFER MEDIUM FOR THERMAL MANAGEMENT

10/15/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on October 12, 2009 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed September 10, 2007, and that non-elected claims 3-4 be rejoined and examined on the merits. Claims 1, 5, 6, 9, 10, 16-18, 20 and 23-26 were elected and examined and claims 2-4, 7-8, 11-15, 19 and 21-22 were withdrawn from consideration as drawn to a non-elected invention. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED as untimely**.

A review of the record shows that the instant petition was filed on September 12, 2009 after the notice of appeal of August 13, 2009 was filed. Pursuant to 37 CFR 1.144[1], the petition is not timely filed since the petition was filed after the filing of the appeal. As the petition was not timely filed, the relief requested withdrawal of restriction requirement to claims 3 and 4 will not be granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3744 for further preparation of an Examiner's Answer.

[1] § 1.144 Petition from requirement for restriction. After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see 37 CFR § 1.181).

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". 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 inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Robert Olszewski, Director
Technology Center 3700

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OFFICE OF PETITIONS

EVEREST INTELLECTUAL PROPERTY LAW GROUP
P. O. BOX 708
NORTHBROOK, IL 60065

In re Application of	:	
SHAW, Sandy C.	:	
Application No. 10/887,624	:	DECISION ON PETITION
Filed: July 10, 2004	:	TO WITHDRAW
Attorney Docket No. **115001-005**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 8, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to EVEREST INTELLECTUAL PROPERTY LAW GROUP has been revoked by the assignee of the patent application on April 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PROCOPIO, CORY, HARGREAVES & SAVITCH LLP**
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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MAR 28 2007

OFFICE OF PETITIONS

Applicant: Sung
Appl. No.: 10/887,633
Filing Date: July 9, 2004
Title: ORGANIC ELECTROLUMINESCENT DISPLAY DEVICE WITH SEPARATELY CONNECTED SIGNAL LINES AND POWER LINES
Attorney Docket No.: E0523-00067(AU0311007)
Pub. No.: US 2006/0007381 A1
Pub. Date: January 12, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 9, 2007, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors, as the specification, drawings, abstract and claims have been replaced with the contents of another 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 request for corrected publication received on February 9, 2007, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the contents of another patent application submitted with the information disclosure statement (IDS). Due to the nature of the errors in this

[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).

publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). It would benefit the Office if copies of the application and other applications were labeled in large bold letters to facilitate processing.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

Patent No. :7095618
Inventor(s) : Sreenath Mambakkam
Issued : 8/22/2007
Title : SMARTCONNECT UNIVERSAL FLASH MEDIA CARD ADAPTERS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that column 1, line 9-11 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

GREENBERG TRURIG, LLP
1900 UNIVERSITY AVENUE, FIFTH FLOOR
EAST PALO ALTO, CA 94303

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Fitch, Even, Tabin & Flannery
120 South LaSalle Street, Suite 1600
Chicago, IL 60603-3406

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MAR 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Bryson et al.	:	
Application No. 10/887,658	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 79201	:	

This is a decision on the petition under 37 CFR 1.182, filed December 8, 2005, to change the inventor's name.

The petition is **granted**.

The Office of Petitions has changed the inventor's name in the USPTO computer records and printed a new bibliographic data sheet, which will be scanned into the Image File Wrapper.

A corrected filing receipt, reflecting the requested change, accompanies this decision.

Petitioners paid a $130.00 petition fee; however, the current fee for filing a petition under 37 CFR 1.182 is $400.00. Thus, the Office will charge petitioners' Deposit Account in the amount of $270.00, as authorized.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/09

TO SPE OF : ART UNIT 3744 Tyler Cherylle (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/887675 Patent No.: 7617988

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

H. Riley
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Cheryl Tyler
SPE

3744
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/21/2010

Applicant	: Katsumi Hayashi	: DECISION ON REQUEST FOR
Patent Number	: 7588844	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20070319

DATE : March 19, 2007

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction on Patent No.: 6,979,048

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:

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE: D. Glenn Dayoan **Art Unit** 3612

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

Treyz Law Group
870 Market Street, Suite 984
San Francisco, CA 94102

Mail Date: 04/21/2010

Applicant	: Guido Appenzeller	: DECISION ON REQUEST FOR
Patent Number	: 7624269	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,721	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1404** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

Treyz Law Group
870 Market Street, Suite 984
San Francisco, CA 94102

Mail Date: 05/18/2010

Applicant : Guido Appenzeller
Patent Number : 7624269
Issue Date : 11/24/2009
Application No : 10/887,721
Filed : 07/09/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1439** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Peacock and McInvale
Application No. 10/887,754
Filed: July 9, 2004
Attorney Docket No. M005Z/302798
For: TWO-SIDED MANHOLE STEP

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) February 7, 2005 (certificate of mailing dated February 2, 2005, 2005.)

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on July 9, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on September 2, 2004, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. The instant petition was filed, responsively, on February 7, 2007, along with a request for an extension of time within the third month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (4) as set forth above.

As to item (4), it is not clear what the last known address of the non-signing inventor is. The petition first indicates that the last known address is "35 Cottage Lane, Newnan, GA 30265". The petition later indicates that the Mr. McInvale is no longer at the Cottage Lane address, but at an address listed as "168 Avondale Circle, Newnan, Georgia 30265." The declaration of Margaret Cogburn indicates the same and the documentary evidence corroborates the fact that Mr. McInvale's last known address is the Avondale Circle address. Notwithstanding, petitioner still indicates the last known address is the Cottage Lane address and cites that address on the declaration under 37 CFR 1.63. Any renewed petition filed must reconcile this inconsistency so that notice of this application's grant of status under 37 CFR 1.47(a) can be sent to the most recent address for Mr. McInvale.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

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

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of
Peacock and McInvale
Application No.: 10/887,754
Filed: July 9, 2004
Attorney Docket No: M005Z/302798
For: TWO-SIDED MANHOLE STEP

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 20, 2005 (certificate of mailing dated July 18, 2005.)

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on July 9, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on September 2, 2004, requiring a properly executed oath or declaration and payment of a surcharge for the late filing of the same. The notice allowed an extendable period for response of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed, responsively, on February 7, 2005, along with a request for an extension of time within the third month. The petition was dismissed by a decision mailed March 18, 2005. The instant renewed petition was filed on July 20, 2005, with a request for extension of time within the second month.

Petitioner has shown that inventor McInvale cannot be located to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AARON McGUSHION
16470 HARBOUR LANE
HUNTINGTON BEACH, CA 92649

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Doyle	:	
Application No. 10/887,765	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. D-3402	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 29, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 30, 2007. A Notice of Abandonment was mailed on February 27, 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)(III)(C). The instant petition lacks item (1).

As 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 29, 2006, the proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (*see* attached courtesy copy of the Examiner's Advisory Action and Notice of Non-Compliant Amendment (37 CFR 1.121)), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The "Statement for Petition for Revival" was submitted as a physical part of the amendment. Petitioner should comply with the provisions of 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

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.**

Further correspondence with regards to this application may also be filed through the USPTO Electronic Filing System.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action and Notice of Non-Compliant Amendment (37 CFR 1.121)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/887,765	DOYLE, MICHAEL	
	Examiner	Art Unit	
	Craig M. Schneider	3753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 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 _____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: *21-35*.
   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: _____.

Continuation of 3. NOTE: The claims are not presented in the proper format, wherein the underlined and crossed-off text should now be presented without the underline and the crossed-off text deleted as seen in Claims 21 and 35. Further the 112/1st rejection in the final office action has not been addressed. The dependency of claim 34 was changed which raises a new issue and would require further consideration .

Eric Keasel

ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/887,765	Applicant(s) DOYLE, MICHAEL	
	Examiner Craig M. Schneider	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 April 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet.*
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

_____ Legal Instruments Examiner (LIE), if applicable

_____ Telephone No.

Continuation of 4(e) Other: The underlined and crossed-off text is per a previous amendment and therefore the crossed-off text should not be present and the underlined text should not be underlined in claims 21 and 35. Further the claim status identifiers for the above mentioned claims should then be "Previously Amended".

Eric Keasel

ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AARON McGUSHION
16470 HARBOUR LANE
HUNTINGTON BEACH, CA 92649

COPY MAILED

JUL 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Doyle	:	
Application No. 10/887,765	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. D-3402	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 29, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 30, 2007. A Notice of Abandonment was mailed on February 27, 2007.

A first petition to revive under 37 CFR 1.137(b) was filed on April 10, 2007. The petition was dismissed in a decision mailed May 10, 2007, since the amendment submitted did not *prima facie* place the application in condition for allowance. Comes now this renewed petition under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that

the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C). This renewed petition lacks item (1).

As 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 29, 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)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (*see* attached courtesy copy of the Examiner's Advisory Action and Notice of Non-Compliant Amendment (37 CFR 1.121)), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.**

Further correspondence regarding this matter may also be filed through the USPTO Electronic Filing System. After filing electronically, petitioner may wish to contact the undersigned as

to the filing of the renewed petition to expedite consideration thereof.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action and Notice of Non-Compliant Amendment (37 CFR 1.121)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/887,765	DOYLE, MICHAEL	
	Examiner	Art Unit	
	Craig M. Schneider	3753	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: 21-35.
   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: See Continuation Sheet.

Continuation of 13. Other: The specification and drawings have numerous objections that were not addressed.

Eric Keasel

ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/887,765	DOYLE, MICHAEL	
	Examiner	Art Unit	
	Craig M. Schneider	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 24 May 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable _____ Telephone No. _____

Continuation of 4(e) Other: The applicant does not appear to be amending the claims of record that were treated in the final office action dated 8/29/06. The claims filed 6/24/2006 remain the claims of record.

Eric Keasel

ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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AARON PAUL MCGUSHION
16470 HARBOUR LANE
HUNTINGTON BEACH CA 92649

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Michael Dyle :
Application No. 10/887,765 :
Filed: July 9, 2004 :
Attorney Docket No. D-3402 :

ON PETITION

This is a decision on the second renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed August 29, 2006 which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 30, 2007.

The petition decision mailed May 10, 2007 dismissed the petition filed April 10, 2007 for failure to provide an amendment that *prima facie* placed the application in condition for allowance. The petition decision mailed July 5, 2007 dismissed the petition filed May 24, 2007 for failure to provide a proper response to the final Office action.

A Request for Continued Examination and fee was filed September 26, 2007 and the instant renewed petition was filed March 7 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

This application is being referred to Technology Center AU 3753 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.

David Bucci
Petitions Examiner
Office of Petitions

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JAMES E. BRADLEY
BRACEWELL & PATTERSON, L.L.P.
P.O. BOX 61389
HOUSTON TX 77208-1389

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NOV 3 0 2004

OFFICE OF PETITIONS

In re Application of	:
Douglas, Asskildt, Yaghmai, and	: DECISION REFUSING STATUS
Johanessen	: UNDER 37 CFR 1.47(a)
Application No. 10/887,769	:
Filed: 9 July, 2004	:
Atty Docket No. 2137JB.45706	:

This is in response to the petition filed under 37 CFR 1.47(a) on 4 November, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 9 July, 2004, without an executed oath or declaration. Accordingly, on 1 September, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 4 November, 2004 (certificate of mailing date 1 November, 2004), petitioners filed the present petition, the late-filing surcharge, and a declaration naming Neil Douglas, Knut Asskildt, Sohrab Yaghmai, and Svein Johannessen as joint inventors and signed by all inventors except Yaghmai on behalf of themselves and joint inventor Yaghmai.

Petitioners assert that joint inventor Yaghmai has refused to sign the declaration. In support, petitioners have provided a declaration by Klas-Goran Eriksson, in which Mr. Eriksson states that he forwarded documents for this application to joint inventor Yaghmai, but that Yaghmai has refused to sign the declaration. Petitioners have also provided a copy of a Norwegian-language E-mail, and English translation thereof, in which joint inventor Yaghmai states his refusal to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that joint inventor Yaghmai was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] While Mr. Eriksson's declaration states that "the documents" were sent to non-signing joint inventor Yaghmai, it is unclear whether the documents sent to the non-signing inventor included the specification, including claims, drawings, if any, and the declaration.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

---

[1] MPEP 409.03(d).

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW 02-05

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BRACEWELL & PATTERSON, L.L.P.
P.O. BOX 61389
HOUSTON TX 77208-1389

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:
Douglas, Asskildt, Yaghmai, and	: DECISION ACCORDING STATUS
Johanessen	: UNDER 37 CFR 1.47(a)
Application No. 10/887,769	:
Filed: 9 July, 2004	:
Atty Docket No. 2137JB.45706	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 February, 2005 (certificate of mailing date 31 January, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Sohrab Yaghami, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the declaration of Michael J. Newstead, establishes that a copy of the application papers was sent to non-signing inventor Yaghami on 5 January, 2005. Yaghami has failed, however, to sign and return the declaration naming him as a joint inventor along with Neil Douglas, Knut Asskildt, and Svein Johannessen after having been sent 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 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 forwarded to Technology Center Art Unit 3672 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
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 02-05

Sohrab Yaghami
Ravnåsveien 62D
1254 Oslo
NORWAY

COPY MAILED

FEB 18 2005

OFFICE OF PETITIONS

In re Application of
Douglas et al.
Application No. 10/887,769
Filed: 9 July, 2004
For: CONTROLLING A FLUID WELL

Dear Mr. Yaghami:

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

JAMES E. BRADLEY
BRACEWELL & PATTERSON, L.L.P.
P.O. BOX 61389
HOUSTON TX 77208-1389

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Kevin Edward Brown	: DECISION ON REQUEST FOR
Patent Number	: 7598071	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANON U.S.A. INC.
INTELLECTUAL PROPERTY DEPARTMENT
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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OCT 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Kazuro Yamada	:	
Application No. 10/887,780	:	ON PETITION
Filed: 9 July, 2004	:	
Attorney Docket No. CFC00682US/2488	:	

This is a decision on the petition filed on 20 September, 2004, requesting that the above-identified application be accorded a filing date of 9 July, 2004, with Pages 30-35 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 9 July, 2004.

Accordingly, on 24 August, 2004, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, stating that the application had been accorded a filing date of 9 July, 2004, but that Pages 30-35 of the specification (description and claims) appeared to have been omitted. Additionally, an abstract of the technical disclosure in accordance with 37 CFR 1.72(b) was required.

In response, on 20 September, 2004, the present petition and Pages 30-35 of the specification were filed, including one (1) page containing the abstract. Petitioners argue that Pages 30-35 of the specification were filed with the other application papers on 9 July, 2004, but were 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 "070904", the above-identified application number, and identifies the application by the inventor's name, invention title and attorney docket number, and acknowledges receipt of, *inter alia*, "Specifications: 28 pages (excluding claims), Claims: 13 and 7 page(s)". Petitioners request that the application, including

Pages 30-35 of the specification containing claims, be accorded a filing date of 9 July, 2004.

A review of the record reveals that no Pages 30-35 of the specification have been located among the application papers received on 9 July, 2004. However, the evidence is convincing that the application papers deposited on 9 July, 2004, included 35 pages of specification, Pages 30-35 of which were subsequently misplaced in the Office. Therefore, the application, including Pages 30-35 of the specification, is entitled to a filing date of 9 July, 2004.

The "Notice" mailed on 24 August, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-2456.

The application will be processed with the copy of Pages 30-35 supplied on 20 September, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 9 July, 2004, using the application papers filed on that date, and the copy of Pages 30-35 of the specification supplied with the present petition.

Telephone inquires 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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Bever Hoffman & Harms, LLP
2099 Gateway Place
Suite 320
San Jose, CA 95110

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Aldon R. Reinhardt	:	
Application No. 10/887,783	:	DECISION ON PETITION
Filed: July 9, 2004	:	TO WITHDRAW
Attorney Docket No. VTI-001-2C	:	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 16, 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 E. Eric Hoffman 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 Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Aldon R. Reinhardt**
P.O. Box 2494
Livermore, CA 94550

cc: **Goodfield Energy Corporation**
c/o Joe Parma
P.O. Box 20899
Castro Valley, CA 94546

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/887,783	07/09/2004	Aldon R. Reinhardt	VTI-001-2C

CONFIRMATION NO. 3633

POWER OF ATTORNEY NOTICE

22888
BEVER HOFFMAN & HARMS, LLP
2099 Gateway Place
Suite 320
San Jose, CA 95110

OC000000031555136

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/16/2008.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No. 040605

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington VA 22215

JUN 15 2005

In re Application of:
Andy J. Biggs
Serial No.: 10/887,831
Filed: July 12, 2004
For: **ADAPTER SYSTEM FOR CONNECTING COAXIAL CABLE TO TELEPHONE CABLE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 12, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicant stating that Andy Biggs is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he 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, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he 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.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle

Clayton LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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SEP 3 0 2005

Technology Center 2100

In re Application of: MIKUMA, et al.
Application No. 10/887,844
Filed: July 12, 2004
For: SOFTWARE MANAGEMENT METHOD FOR A STORAGE SYSTEM, AND STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 15 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The 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.

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.

Applicant's submission meets all the criteria set out above. The first statement (discussed below) repeated for each reference deemed most closely related in the discussion of each reference on pages 6-21 of the petition is sufficient in distinguishing how the claimed subject matter is patentable over the references. Accordingly, the petition is **GRANTED**.

It is noted that although the statement discussed above has been deemed sufficient, the petition as a whole is potentially confusing. The petition identifies a first feature of independent claim 1 and a second feature of independent claim 16 on pages 4-5. On pages 6-21 of the petition, the discussion sets forth a first statement that each of the references deemed most closely related fails to teach or suggest the first feature of claim 1 and the second feature of claim 16. This first statement makes no reference to the other limitations recited in the claims. Immediately after this statement for each of the references, however, the discussion sets forth a second statement that in "terms of explicit limitations, the reference does not teach or suggest [essentially all of the limitations of claim 1 nor does it teach or suggest essentially all of the limitations of claim 16]." Also, page 4 of the petition states that "the cited references, at a minimum, fail to teach or suggest *in combination with the other limitations recited in the claims*," (emphasis added) the first feature of claim 1 and the second feature of claim 16. The petition is potentially confusing since the first statement for each reference and the second statement (as well as the statement on page 4) are of different scope and one could argue that it is not clear whether the first statement is intended to distinguish the references or whether the second statement (or the statement on page 4) is intended to distinguish the references. Accordingly, it is suggested that any future petitions be prepared so that there is no such potential confusion. Also, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Chiang et al.	:	
Application No. 10/887,857	:	DECISION ON
Filed: July 12, 2004	:	PETITION
Atty Docket No. CHIA3069/EM	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 C.F.R. §1.181(a)) filed January 19, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed May 20, 2005. This Notice set a one month time period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective June 21, 2005. A courtesy Notice of Abandonment was mailed on May 1, 2006.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn. Petitioner states that a terminal disclaimer will be filed if required.

The instant petition is untimely because it was filed more than a year after the abandonment of the application. However, the record before the undersigned does not indicate that applicants intentionally delayed the filing of a petition to withdraw the holding of abandonment. Moreover, no terminal disclaimer is required in this application filed July 12, 2004. As stated in

MPEP 711.03(c), in utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should not be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 CFR 1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application. Thus, the petition will be considered on the merits and the application will be subject to entry of a period of reduction of patent term adjustment for applicant delay.

On the merits of this petition, a review of the application file reveals no irregularities in the mailing of the Notice mailed May 20, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed March 21, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2613 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response filed on petition filed January 19, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. None

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Byong Man Kim, Kazuo Nakazato, and
Hiroshi Mizuta
Application No. 10/887,860
Filed: July 12, 2004
Attorney Docket Number: 1076.44053X00
Title: NANOTUBE TRANSISTOR DEVICE

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 16, 2004.

The above-identified application was filed on July 12, 2004, identifying Byong Man Kim, Kazuo Nakazato, and Hiroshi Mizuta as joint inventors. No oath or declaration was submitted on filing. On September 16, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, and further indicating that the surcharge associated with the late filing of the same would also be required.

On November 16, 2004, the instant petition was filed, along with the surcharge and a one-month extension of time.[2] Petitioner has also included a declaration executed by Messrs. Nakazato and

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 It is noted that the extension of time was not required. As such, it will be applied towards the petition fee which Petitioner has failed to submit.

Mizuta, the last known address of non-signing joint inventor Kim, and a print-out of several e-mails.

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 has included an e-mail where one Janice Jeremy stated that she contacted a former employer of the non-signing inventor. This does not indicate 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 and to send the application papers to that address for consideration by the inventor[3]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[4].

As such, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

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[5], hand-delivery[6], or facsimile[7].

---

3 See MPEP 409.03(d).
4 See MPEP 409.03(d).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Byong Man Kim, Kazuo Nakazato, and :
Hiroshi Mizuta :
Application No. 10/887,860 :
Filed: July 12, 2004 :
Attorney Docket Number: 1076.44053X00 :
Title: NANOTUBE TRANSISTOR DEVICE :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 10, 2005.

The above-identified application was filed on July 12, 2004, identifying Byong Man Kim, Kazuo Nakazato, and Hiroshi Mizuta as joint inventors. No oath or declaration was submitted on filing. On September 16, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, and further indicating that the surcharge associated with the late filing of the same would also be required.

On November 16, 2004, the original petition was filed, along with the surcharge. Petitioner also included a declaration executed by Messrs. Nakazato and Mizuta, the last known address of non-signing joint inventor Kim, and a print-out of several e-mails. This original petition was

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.

dismissed via the mailing of a decision on March 2, 2005, for the failure to establish the fourth requirement above. The decision set forth:

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* Petitioner has included an e-mail where one Janice Jeremy stated that she contacted a former employer of the non-signing inventor. This does not indicate 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 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].

Emphasis included.

With this renewed petition, Petitioner has included a two-month extension of time to make timely this response. Petitioner has also included a statement of facts from Ms. Janice Jeremy and has indicated that a "substantial effort[4]" was undertaken to locate the non-signing inventor. It appears that this substantial effort consists of a single phone call made from Ms. Jeremy to the former employer of the non-signing inventor. When the former employer was not able to provide her with any useful information, no further action was undertaken. This fails to constitute a diligent search.

Ms. Jeremy has also indicated that one Joan Hester consulted an international directory, but no statement from Ms. Hester has been provided. Several e-mails from Ms. Hester have been submitted, but it does not appear that any of them mention a search performed by the same. As such, a statement from a party having firsthand knowledge of the details of this search has not been provided.

As such, the renewed 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 "Second Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. 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.

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2 See MPEP 409.03(d).
3 See MPEP 409.03(d).
4 Renewed petition, page 1.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

The application file will be retained in the Office of Petitions for two (2) months.

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

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
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Paper No. None

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
Byong Man Kim, Kazuo Nakazato, and
Hiroshi Mizuta
Application No. 10/887,860
Filed: July 12, 2004
Attorney Docket Number: 1076.44053X00
Title: NANOTUBE TRANSISTOR DEVICE

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed August 29, 2005.

The above-identified application was filed on July 12, 2004, identifying Byong Man Kim, Kazuo Nakazato, and Hiroshi Mizuta as joint inventors. No oath or declaration was submitted on filing. On September 16, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, and further indicating that the surcharge associated with the late filing of the same would also be required.

On November 16, 2004, the original petition was filed, along with the surcharge. Petitioner also included a declaration executed by Messrs. Nakazato and Mizuta, the last known address of non-

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.

signing joint inventor Kim, and a print-out of several e-mails. This original petition was dismissed via the mailing of a decision on March 2, 2005, for the failure to establish the fourth requirement above. The renewed petition was filed on June 10, 2005, and was dismissed via the mailing of a decision on June 30, 2005 for the same reason.

With this second renewed petition, Petitioner has established that a diligent effort was made to locate the non-signing joint inventor.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Roger Panicacci	: DECISION ON REQUEST FOR
Patent Number	: 7652703	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/887,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: 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.

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 05/18/2010

Applicant : Roger Panicacci
Patent Number : 7652703
Issue Date : 01/26/2010
Application No : 10/887,880
Filed : 07/12/2004

: 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 **858** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA 22314

Mail Date: 05/24/2010

Applicant	: Jonathan Dean Segel	: DECISION ON REQUEST FOR
Patent Number	: 7627824	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/887,886	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Baker & Hostetler LLP
Suite 1100
Washington Square
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

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SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Kelly et al.	:	
Application No. 10/887,934	:	DECISION REFUSING STATUS
Filed: July 12, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 56600.1002	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 12, 2004.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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).

On July 12, 2004, applicants filed the present petition, a declaration signed by two of the three joint inventors, and authorized payment of the petition fee.

In the Statement of Facts, Kenneth J. Sheehan states, in pertinent part, that ". . . a copy of these papers are being forwarded to Mr. Kiefer seeking his signature on the declaration, which we expect to result in his explicit refusal to do so."

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a

statement of the last known address of the non-signing inventor. Applicants lack item (1) as set forth above.

As to item (1), it is unclear from the record whether Nicholas Kiefer was presented with the complete application papers. Unless Mr. Kiefer was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, were presented to Mr. Kiefer, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

The $130.00 petition fee will be charged to Deposit Account No. 50-2036, as authorized.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589 (after September 27, 2004, at (571) 272-3211).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Clary et al. : DECISION ON PETITION
Application No. 10/887,956 :
Filed: July 9, 2004 :
Attorney Docket No. AOL0140 :

This is in response to the Request for Corrected Filing Receipt filed January 31, 2006. Petitioners should have properly filed a petition pursuant to 37 CFR § 1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of July 9, 2004. This decision is made in light of the 17 sheets of drawings re-supplied on September 17, 2007.

Application papers in the above-identified application were deposited on July 9, 2004. However,

- on May 19, 2005, the Office of Initial Patent Examination mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had not been accorded a filing date because the application was deposited without drawings. (In addition, the declaration was unsigned.).
- on September 9, 2005, the Office mailed a NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(e).
- on September 19, 2005, applicants timely filed a REQUEST TO WITHDRAW NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(E). Accompanying this request was a postcard receipt submitted to show that a response was timely filed on July 19, 2005 to the NOTICE, including drawings and an executed declaration.
- on November 16, 2005, the Office mailed a WITHDRAWAL OF PREVIOUSLY SENT NOTICE, withdrawing the Notice of Termination of Proceedings mailed September 9, 2005, and a

NOTICE TO FILE CORRECTED APPLICATION PAPERS, requesting replacement drawings. This Notice also stated that the application had been accorded a filing date of July 19, 2005.

- on January 17, 2006, applicants filed a response to the NOTICE TO FILE CORRECTED APPLICATION PAPERS.
- on January 31, 2006, applicants filed the instant REQUEST FOR A CORRECTED FILING RECEIPT, requesting that the filing date of this application be corrected to July 9, 2004. In support thereof, applicants submitted a copy of their original itemized and date-stamped return postcard and their Express Mail mailing label.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on July 9, 2004, and the items filed therewith were assigned Application No. 10887956; 2) it specifically identifies the items being filed, including "Informal Drawings (17 Sheets)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 17 sheets of informal drawings, were filed on July 9, 2004.

It is noted that the Office erred in correcting the filing date to July 19, 2005. The record supports a conclusion that formal drawings were submitted on July 19, 2005. Based on this filing the filing date should not have been changed to July 19, 2005.

The application is entitled to a filing date of July 9, 2004 with the papers presented to the Office on that date. Pursuant to a telephone request, on September 17, 2007, applicants re-supplied a copy of the drawings as originally filed on July 9, 2004.

Petitioner is reminded that given that the informal drawings were re-supplied after the filing of the formal drawings, it may be necessary for petitioner to file a further preliminary amendment to ensure that the application is examined using the formal drawings filed January 17, 2006, if appropriate.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Although authorized no petition fee is being charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision and for:

- correction of the filing date to July 9, 2004, using the application papers received in the Office and presently accorded a filing date of July 19, 2005; and the 17 sheets of informal drawings re-supplied on supplement to petition filed September 17, 2007)

- for indication in Office records, as appropriate, that 17 sheets of drawings were present in the application on filing.

The application with a filing date of July 9, 2004 has been forwarded to the Technology Center for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of 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	TOT CLMS	IND CLMS
10/887,956	07/09/2004	2161	1500	AOL0140	20	2

CONFIRMATION NO: 5222

CORRECTED FILING RECEIPT

OC000000025870848

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Date Mailed: 09/18/2007

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)

Robert D. Clary, Howardsville, VA;
Jim Davidson, Reston, VA;
Judson Valeski, Boulder, CO;

Power of Attorney:

Michael Glenn--30176
Donald Hendricks--40355
Christopher Peil--45005
Julia Thomas--52283

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/887,956

Projected Publication Date: 12/27/2007

Non-Publication Request: No

Early Publication Request: No

Title

Web page performance scoring

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
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of :
Kevin R. Barrett :
Application No. 10/887,975 :
Filed: July 9, 2004 :
Attorney Docket No. 063170.6560 :
Title: SYSTEMS AND METHODS FOR :
MANAGING PROJECTS :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 14, 2007.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on October 12, 2006. No extensions of time pursuant to 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on December 13, 2006. A Notice of Abandonment was mailed on July 3, 2007.

It is noted that a Pre-Appeal Brief Request for Review was submitted concurrently with the Notice of Appeal. The Office mailed a communication on November 7, 2006, indicating that the Pre-Appeal Brief Request for Review was improper, as it contained the incorrect application serial number (09/811,848) and the submission had not been executed. This communication did not set a period for response.

On June 4, 2007, subsequent to the abandonment of this application, a corrected Pre-Appeal Brief Request for Review was received in the Office.

With the present petition, Petitioner has indicated that the communication of November 7, 2006 was mailed to the incorrect address.

The electronic file has been reviewed, and it is clear that a Revocation of Attorney and Appointment of New Attorneys was received in the Office on September 22, 2005. It does not appear that this submission was properly entered by the Office. Consequently, the communication of November 7, 2006 was mailed to the law firm of record at the time.

The Revocation of Power of Attorney and Change of Correspondence Address received on September 22, 2005 has been entered and made of record. The Office regrets the period of delay in entering this submission.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the Office communication was not received. However, this petition cannot be granted.

Petitioner has requested that the Office either re-mail the communication of November 7, 2006 and set a three-month period for response, or enter the corrected Pre-Appeal Brief Request for Review.

Neither request can be accommodated.

Pre-Appeal Brief Request for Review practice was established via the publication of 1296 O.G. 67 on July 12, 2005, and was extended until further notice via the publication of 1303 O.G. 21 on February 7, 2006. The former indicates that a Pre-Appeal Brief Request for Review must be filed concurrently with the Notice of Appeal[1], and that "a request filed after the date of receipt of the notice of appeal will be dismissed as untimely[2]."

As such, the communication of November 7, 2006 did not set a period for response because the filing of a corrected Pre-Appeal Brief Request for Review was not an option that was available to Petitioner. 1296 O.G. 67 prohibits the submission of a Pre-Appeal Brief Request for Review subsequent to the filing of a notice of appeal, and as such, there is no provision of the filing of a corrected Pre-Appeal Brief Request for Review.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a)

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1 1296 O.G. 67 at section 2. See also sections 1 and 3.
2 Id. at section 8.

are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

Alternatively, Petitioner may wish to consider submitting a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b) along with either an Appeal Brief, an after-final amendment that places the application in condition for allowance, a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable, or a Request for Continued Examination pursuant to 37 C.F.R. § 1.114.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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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
10/887,975	07/09/2004	Kevin R. Barrett	655/69819

CONFIRMATION NO. 4656

POWER OF ATTORNEY NOTICE

RICHARD F. JAWORSKI
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

OC000000028289383

Date Mailed: 02/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/22/2005.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/887,975	07/09/2004	Kevin R. Barrett	655/69819

CONFIRMATION NO. 4656

POA ACCEPTANCE LETTER

5073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

OC000000028289396

Date Mailed: 02/14/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/22/2005.

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.

/pashanoski/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Barrett	:	
Application No. 10/887,975	:	DECISION ON RENEWED PETITION
Filed: July 9, 2004	:	PURSUANT TO
Attorney Docket No. 063170.6560	:	37 C.F.R. § 1.181(A)
Title: SYSTEMS AND METHODS FOR	:	
MANAGING PROJECTS	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on April 11, 2008.

The renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on October 12, 2006. No extensions of time pursuant to 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on December 13, 2006. A Notice of Abandonment was mailed on July 3, 2007.

A Pre-Appeal Brief Request for Review was submitted concurrently with the Notice of Appeal. The Office mailed a communication on November 7, 2006, indicating that the Pre-Appeal Brief Request for Review was improper, as it contained the incorrect application serial number (09/811,848) and the submission had not been executed. This communication did not set a period for response.

On June 4, 2007, subsequent to the abandonment of this application, a corrected Pre-Appeal Brief Request for Review was received in the Office.

An original petition was filed on December 14, 2007, and was dismissed via the mailing of a decision on February 19, 2008. The decision indicated, *in pertinent part*:

> Pre-Appeal Brief Request for Review practice was established via the publication of 1296 O.G. 67 on July 12, 2005, and was extended until further notice via the publication of 1303 O.G. 21 on February 7, 2006. The former indicates that a Pre-Appeal Brief Request for Review must be filed concurrently with the Notice of Appeal[1], and that "a request filed after the date of receipt of the notice of appeal will be dismissed as untimely[2]."
>
> As such, the communication of November 7, 2006 did not set a period for response because the filing of a corrected Pre-Appeal Brief Request for Review was not an option that was available to Petitioner. 1296 O.G. 67 prohibits the submission of a Pre-Appeal Brief Request for Review subsequent to the filing of a notice of appeal, and as such, there is no provision of the filing of a corrected Pre-Appeal Brief Request for Review.

With this renewed petition, Applicants have set forth three arguments.

First, Applicants have argued that the non-receipt of the communication on November 7, 2006 "prevented Applicants from receiving and responding to the only action that was the basis of the abandonment holding[3]."

As set forth in the first page of the decision on the original petition, this application went abandoned "for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on October 12, 2006," notwithstanding the erroneous indication contained in the notice of abandonment that this application went abandoned for "failure to timely file a proper reply to the Office letter mailed on 07 November 2006[4]." Applicants' non-receipt of this notice is irrelevant to the fact that Applicants submitted a notice of appeal along with a Pre-Appeal Brief for Review that was deemed to be improper and failed to submit an appeal brief in a timely manner.

Second, Applicants have presented arguments pertaining to the propriety of the request. These arguments have not been considered, as the propriety of the request is irrelevant to the fact that Petitioner failed to file an appeal brief within two

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1 1296 O.G. 67 at section 2. See also sections 1 and 3.
2 Id. at section 8.
3 Renewed petition, page 3.
4 See 37 C.F.R. § 41.37(a)(1): "Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31."

months from the date of the filing of the notice of appeal, as required by 37 C.F.R. § 41.37(a)(1).

Third, Applicants have presented arguments pertaining to the propriety of holding of this application abandoned. These arguments have been considered and they have not been found to be persuasive. Petitioner will note that on December 12, 2006, this application went abandoned by operation of law, pursuant to 37 C.F.R. § 41.37(a)(1).

Neither Applicants' renewed request for the withdrawal of the holding of abandonment, nor Applicants' renewed request for the holding of a Pre-Appeal Brief Review can be accommodated, for the reasons set forth in the decision on the original petition.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[8].

Thereafter, there will be no further reconsideration of this matter[9, 10]. **Applicants' only relief is a petition pursuant to 37 C.F.R. § 1.137(a) and/or (b)**, along with either an Appeal Brief,

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.
10 If, on the second request for reconsideration, Applicants fail to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

an after-final amendment that places the application in condition for allowance, a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable, or a Request for Continued Examination pursuant to 37 C.F.R. § 1.114. **Having been made aware of this reality, any further delay in promptly seeking relief pursuant to 37 C.F.R. § 1.137 may be considered evidence of intentional delay and an absolute bar to revival.**

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[11]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

11 Applicants 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, Applicants are reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Applicants.

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ALEXANDRIA, VA 22313-1450
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Paper No.

STEVENS LAW GROUP
P.O. BOX 1667
SAN JOSE, CA 95109

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NOV 09 2004

OFFICE OF PETITIONS

In re Application of :
Park et al. :
Application No. 10/887,986 :
Filed: July 9, 2004 : ON PETITION
Attorney Docket Number: :
TSRA-00101 :

This is a decision on the Petition, filed October 13, 2004, requesting the application be accorded a filing date of July 9, 2004, including 13 sheets of drawings.

The petition is **dismissed**.

The application was filed on July 9, 2004. However, on September 30, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had been accorded the application; however, Figures 13-16 described in the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that 13 sheets of drawings were originally filed with the application on July 9, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 13 sheets of drawings on July 9, 2004.

A comparison of the drawings filed with the instant petition and those received in this Office on July 9, 2004, reveal a discrepancy between the drawings filed on petition, which are allegedly the drawings filed on July 9, 2004, and the drawings located in the application file on July 9, 2004. Drawing Figures 1 through 12, filed on July 9, 2004, are identical to drawing Figures 5 through 16, filed with the instant petition on October 13, 2004. Because of the discrepancy in the labeling of

identical Figures, it appears that the Figures filed with the instant petition are not the Figures filed with the application on July 9, 2004. Applicants are asked to explain this discrepancy.

This petition is dismissed without prejudice.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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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JACKSON WALKER L.L.P
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of
Gary S. Nuell et al.
Application No. 10/887,987
Filed: July 9, 2004
Attorney Docket No. 120298-0001

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 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 33649. 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).

Christopher J. R Rourk signed the request on behalf of all attorneys of record.

Christopher J. Rourk and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Gary Nuell
843 Euclid Street #105
Santa Monica, CA 90403

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HUGH D JAEGER, P.A.
P.O. BOX 672
WAYZATA MN 55391-0672

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OFFICE OF PETITIONS

In re Application of :
Robert J. HOGHAUG et al. :
Application No. 10/888,039 : DECISION ON PETITION
Filed: July 09, 2004 :
Attorney Docket No. **HOGHAUG** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 03, 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 06, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 07, 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 $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 06, 2007 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2179 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **HUGH D JAEGER, ESQ.**
P.O. BOX 432
WAYZATA MN 55391-0432

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Hoghaug et al.	:	
Application No. 10/888,039	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 4315.02US02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed October 23, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 24, 2009. A Notice of Abandonment was mailed May 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 2175 for processing of the Request for Continued Examination under 37 CFR 1.114 filed filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OCT - 6 2005

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

In re Application of	:
Josef Antal et al	:
Serial No.: 10/888,075	: PETITION TO MAKE SPECIAL
Filed: July 9, 2004	:
Attorney Docket No.: 41743.8004	:

This is in response to applicants' petition filed August 8, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on health of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, III. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 19 2005

In re Application of GROSS et al. Serial Number: 10/888,079 Filed: July 9, 2004 For: SOLAR CONCENTRATOR ARRAY WITH INDIVIDUALLY ADJUSTABLE ELEMENTS	:	PETITION UNDER M.P.E.P.708.02 VI

This is in response to the petition filed November 2, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 VI is granted because the criteria under 37 CFR 1.102(c) have been met.

The petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
David CORBETT et al :
Application No. 10/888,082 : DECISION ON PETITION
Filed: 7/7/2004 :
Attorney Docket No. 27506.38.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 3/31/2008, 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 8/2/2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on 9/3/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2135 for appropriate action by the Examiner in the normal course of business on the reply received 3/31/2008.

David A. Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : August 27, 2007

Patent No. : 7241078 B2
Application No : 10/888091
Inventor(s) : Surges
Issued : July 10, 2007
Title : **MODULAR PIER SYSTEM**
Docket No. : S854.12-0002

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

CBN/eme

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Alexandria, VA 22313-1450
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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

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NOV 06 2007
OFFICE OF PETITIONS

In re Patent No. 7,241,078	:	
Issue Date: July 10, 2007	:	
Application No. 10/888,091	:	ON PETITION
Filed: July 9, 2004	:	
Patentee(s): Carl James Surges	:	

This is a decision on the petition under 37 CFR 1.183 filed on October 11, 2007, which is being treated as a petition under 37 CFR 3.81[1], to delete the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

This patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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JAN 14 2005

Director's Office
Group 3700

Brian M. Berliner
O'MELVENY & MYERS LLP
400 So. Hope Street
Los Angeles, CA 90071-2899

In re application of Robert S. Symons	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/888101 Filed: July 9, 2004	:	

For: **INTEGRATED LIQUID COOLING DEVICE FOR ELECTRONIC COMPONENTS**

This is a decision on the petition filed on September 24, 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: 1/13/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ANDRE HOULE DEVELOPPEMENT INC.
1451, CHEMIN PRINCIPAL
ST GERARD DES LAURENTIDES, QC G9R 1E6 CA CANADA

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of	:	
HOULE, Andre	:	
Application No. 10/888,115	:	DECISION ON PETITION
Filed: July 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **011840-0003**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 23, 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)(II)(A)(2). A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.[1]

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application 11/819,846.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Isabelle Girard appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf he acts. If Ms. Girard desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is

being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.[1]

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: **ISABELLE GIRARD**
ROBIC/ CENTRE CDP CAPITAL
1001 VICTORIA SQUARE/BLOC E, 8TH FLOOR
MONTEAL QC, CANADA H2Z 2B7

[1] 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 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.

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 06/01/2010

Applicant	: Chandrashekhar Appanna	: DECISION ON REQUEST FOR
Patent Number	: 7623464	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/888,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

COHEN SAKAGUCHI & ENGLISH LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

In re Application of
Lawrence E. Tannas, Jr.
Application No. 10/888,151
Filed: July 9, 2004
For: METHODS OF CUSTOMIZING THE PHYSICAL SIZE AND SHAPE OF COMMERCIAL OFF-THE-SHELF (COTS) ELECTRONIC DISPLAYS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 29, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of his Drivers License evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of
Costesso et al.
Application No. 10/888,155
Filed: July 9, 2004
Attorney Docket Number: 2402-6049.1US
Title of Invention: Method For Purification of High Purity Sucrose Material

ON PETITION

This is a decision on the petition filed August 16 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed May 15, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 16, 2006. A Notice of Abandonment was mailed on September 13, 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
Petitions Attorney
Office of Petitions

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Hewlett-Packard Co.
Legal Dept. M/S 79
3404 E. Harmony Rd.
Ft. Collins, CO 80528

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Reuter, et al. :
Application No.: 10/888,156 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No.: 200302242-3 :

This a decision on the petition filed November 1, 2004. The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on July 9, 2004. On September 2, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items in Non-provisional Application indicating that the application had been accorded a filing date, but that page 3 of the specification appeared to have been omitted. The notice allowed a non-extendable period for reply of two-months from its mailing date. The instant petition was filed on September 2, 2004, wherein petitioner argued that page 3 of the specification should be considered present on filing because the subject application incorporated by reference the entirety of the prior-filed application 09/872,971.

In view of the incorporation by reference statement found in the first paragraph of the specification, the application will retain the filing date of June 14, 2004, with page 3 of the specification as part of the original disclosure. The examiner assigned to this application will be expected to consider the preliminary amendment and compare page 3 of the specification as filed with the instant petition with page 3 as contained in application 09/872,971 to be sure application 10/888,156 does not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of July 9, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,431,201
Issued: October 7, 2008
Application No. 10/888,157
Filed: July 9, 2004
Attorney Docket No. 055555-0234

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed November 19, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred forty-six (346) days to six hundred thirty-two (632) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 7, 2008, the above-identified application matured into US Patent No. 7,431,201 with a patent term adjustment of 346 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee is a prerequisite for treatment on the merits of any request for reconsideration of patent term adjustment. Accordingly, the request for refund of the fee is hereby **DISMISSED**.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a patent term adjustment of 632 days (408 days pursuant to 37 CFR 1.702(a) + 456 days pursuant to 37 CFR 1.702(b) reduced by 122 days of overlap reduced by 110 days for applicant delay).

The 456-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on July 9, 2004 and the patent having been issued on October 7, 2008, three years and 456 days later.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 110 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (456 days) and the period of Examination Delay (408 days) to the extent that these periods of delay are not overlapping. However, in effect, Patentees contend that only 122 days of the Three Year Delay period overlaps with the period of examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 742 days, which is the sum of the period of Three Year Delay (456 days) and the period of Examination Delay (408 days), reduced by the period of overlap (122 days). As such, Patentees assert entitlement to a patent term adjustment of 632 days (408 + 456 reduced by 122 overlap – 110 (applicant delay)).

As of the issuance of the patent on October 7, 2008, the application was pending three years and 456 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 408 days is correct. At issue is whether patentees should accrue 456 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 408 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 408 days of delay attributed to examination delay pursuant to 37 CFR 1.702(a) overlaps with the period of 456 days of delay attributed to the delay in issuance of the patent pursuant to 37 CFR 1.702(b). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(I)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(I)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(I)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22; 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(I)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-©), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, July 9, 2004, to the date the patent issued on October 7, 2008. Prior to the issuance of the patent, 408 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 408 days of examination delay overlap with the 456 days of delay in issuance of the patent. During that time, the issuance of the patent was delayed by 456 days, not 408 days + 456 days. The Office experienced 408 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 408 days of examination delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 456 days. The Office did not delay 408 days and also delay an additional 456 days. Accordingly, 456 days of patent term adjustment (not 408 days and 456 days) was properly entered since the period of

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

examination delay of 408 days overlaps with the period of 456 days of delay in issuance of the patent. Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Alesia Brown
Senior Petitions Attorney
Office of Petitions

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8-4-09

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Patent No. : 7,553,327 B2
Ser. No. : 10/888,163
Inventor(s) : J. Stuart Cumming
Issued : June 30, 2009

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Orrick, Herrington & Sutcliffe
4 Park Plaza, Suite 1600
Irvine, CA 92614

ej

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
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SUITE 1600
IRVINE CA 92614-2558

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In re Patent No. 7,553,327	:	
Issue Date : June 30, 2009	:	
Application No. 10/888,163	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 13533.4044	:	

This is a decision on the petition filed September 22, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

for Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Gruettner et al. :
Application No. 10/888,189 :
Filed: July 9, 2004 : ON PETITION
Attorney Docket Number: :
126381.02001 :

This is in response to the Petition for Decision on a Question not Specifically Provided for Pursuant to 37 CFR 1.17(H)§1.182, requesting the application be accorded a filing date of July 9, 2004, including drawing Figure 2 described in the specification.

The application was filed on July 9, 2004. However, on September 15, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting, *inter alia*, that drawing Figure 2, described in the specification, appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that drawing Figure 2 was among 6 sheets of drawings originally filed with the application on July 9, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 6 sheets of drawings on July 9, 2004. Petitioner has also re-submitted "a complete copy of the application as filed on July 9, 2004, include[ing] the originally submitted Figure 2." *Petition* at p.2.

A review of the application papers filed on July 9, 2004 reveal that sheet 2/6 of the drawings include Figure 2a, 2b, and 2c; however, no drawing Figure 2 was filed. A review of the "complete copy of the application as filed on July 9, 2004, including the originally submitted Figure 2", which were filed with the instant petition reveal that sheet 2/6 of the drawings include Figure 2a, 2b, and 2c; however, no drawing Figure 2 was filed. *Id.*

Applicant has not provided any evidence that would demonstrate that a drawing Figure 2 was filed with this Office on July 9, 2004. If drawing Figure 2 was not present on the July 9, 2004 filing date, it cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that drawing Figure 2 was present in the Office on July 9, 2004. Therefore, the application cannot be accorded the July 9, 2004 filing date with drawing Figure 2 as a part of the original disclosure.

The petition is **DISMISSED**.

The application is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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APR 23 2010

OFFICE OF PETITIONS

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

In re Application of	:	
Cordula CRUETTNER, et al	:	
Application No. 10/888,189	:	DECISION ON PETITION
Filed: July 9, 2004	:	TO WITHDRAW
Attorney Docket No. 134848.02001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

The request to withdraw from record cannot be approved because no correspondence address for future communication from the Office has been provided.

Further, the request to withdraw from record cannot be approved because the attorneys of record were not appointed through use of a Customer Number, as indicated on the Request. Any request to withdraw the attorneys from record should include the same designation by which they were appointed.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON OH 44316-0001

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OFFICE OF PETITIONS

In re Application of
Bonko, et al.
Application No.: 10/888,205
Filed: July 9, 2004
Attorney Docket No.: DN2004130
For: PNEUMATIC DRIVER TIRE FOR TRACKED VEHICLE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2009, 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 July 24, 2008. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on October 25, 2008. The filing of the present petition precedes the mailing of A Notice of Abandonment.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

After the mailing of this decision, the file will be forwarded to Technology Center AU 1791 to await receipt of the appeal brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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MAY 1 8 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of:
ACHARYA, TINKU, et al.
Application Serial No.: 10/888,216
Filed: July 9, 2004
For: **ARCHTECTURE FOR PROCESSING FINGERPRINT IMAGES**

DECISION
ON PETITION

This is a decision on the petition to withdraw finality of office action filed January 13, 2006, pursuant to 37 CFR § 1.181.

Petitioner contends that the Office action mailed December 13, 2005 should not have been made final because the examiner cited a foreign reference without providing a complete translation.

MPEP § 706.02 II states in part:

"Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art. See Ex parte Jones, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished).To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection."

The translation was first provided at final rejection. Applicant was not provided adequate opportunity to respond to the full text of the reference applied against the claims. Consequently, the finality of the office action of December 13, 2005 is withdrawn.

The petition is **GRANTED**.

The file is being forwarded to the Technology Center's technical support staff for entry of the response filed April 13, 2006. From there, the file will be forwarded to the Examiner for preparation of a new action in due course.

5/11/06

Andrew Christensen, Acting Director
Technology Center 2600
Communications

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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of: SIRNA THERAPEUTICS, INC. PCT No.: PCT/US02/15876 International Filing Date: 17 May 2002 Priority Date: 18 May 2001 Attorney's Docket No.: 02-312-PCT;600.019 For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY	DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of :
Udaya Shankar et al :
Application No. 10/888,259 : DECISION ON PETITION
Filed: July 8, 2004 :
Attorney Docket No. 50325-0924 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 7, 2006. Accordingly, the date of abandonment of this application is September 8, 2006. A Notice of Abandonment was mailed on October 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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Lerner, Greenberg, Stemer, LLP
P. O. Box 2480
Hollywood, FL 33022-480

In re Application:	
Dirk-Achim SCHEVARDO, et al	
Patent No. 7,186,012	Decision on Petition
Issue Date: March 6, 20017	
Attny Docket No.DSC-1894	

This is a decision on a petition under 37 CFR 1.324 filed March 30, 2009, requesting that the name of the inventors in the patent be corrected.

The petition and verified statement of facts state that an error occurred in the naming of inventors because the contribution of an additional inventor to the invention was inadvertently left off, that the named inventor did not realize that contributions had been made by the additional inventor, Volker Muller.

Based on the file record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected.

The 37 C.F.R. ∋1.324 petition to correct the inventorship is **Granted.**

Sandra L. O'Shea

Sandra L. O'Shea
S.P.E. Art Unit 2875
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lerner, Greenberg, Stemer, LLP
P. O. Box 2480
Hollywood, FL 33022-480

In re Application: Dirk-Achim SCHEVARDO, et al Patent No. 7,186,012 Issue Date: March 6, 20017 Attny Docket No.DSC-1894	Decision on Petition

This is a decision on a petition under 37 CFR 1.324 filed March 30, 2009, requesting that the name of the inventors in the patent be corrected.

The petition and verified statement of facts state that an error occurred in the naming of inventors because the contribution of an additional inventor to the invention was inadvertently left off, that the named inventor did not realize that contributions had been made by the additional inventor, Volker Muller.

Based on the file record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected.

The 37 C.F.R. ∋1.324 petition to correct the inventorship is **Granted.**

Sandra L. O'Shea

Sandra L. O'Shea
S.P.E. Art Unit 2875
Technology Center 2800

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Perry, et al. :
Application No. 10/888,312 :
Filed: July 9, 2004 :
Attorney Docket No. APST-0080 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 6, 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.

This application is being forwarded to Technology Center 2600 for 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

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NOV 5 2004

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of :	:
Lee et al.	:
Serial No.: 10/888,313	: PETITION TO MAKE SPECIAL
Filed: July 9, 2004	:
Attorney Docket No.: NY-SENTI203-CIP-US2	:

This is in response to applicants' petition filed September 9, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A) and (C). However, applicants have not satisfied the provisions of M.P.E.P. 708.02, XII (B) as applicants have not stated that the subject of the patent application is a major asset of the small entity as required. Therefore, the petition is **DENIED.**

The $130.00 petition fee as required by 37 CFR 1.17(h) has been received.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of:	:
Lee et al.	:
Serial No.: 10/888,313	: PETITION TO MAKE SPECIAL
Filed: July 9, 2004	:
Attorney Docket No.: NY-SENTI203-CIP-US2	:

This is in response to applicants' renewed petition filed November 9, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). Therefore, the petition is **GRANTED.**

There is no fee associated with this renewed petition.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/888,319	07/09/2004	John Kroesser	1078.10A	3814

29637 7590 08/02/2006

BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON, TX 77056

EXAMINER
SAVAGE, MATTHEW O

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

In re Application of John Kroesser et al..
Serial No.: 10/888,319
Filed: July 09, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: SANITATION SYSTEM

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed July 25, 2006 to correct inventorship under 37 CFR 1.48(a) by adding the name of Melvyn Wayne Mellinger to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; and (4) providing the processing fee set forth in 1.17(i).

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Duane S. Smith
Supervisory Patent Examiner
Art Unit 1724
Technology Center 1700

WENDY K. BUSKOP
BUSKOP LAW GROUP, P.C.
1776 YORKTOWN
SUITE 550
HOUSTON TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/888,331	07/08/2004	James E. Clough	200311683-2	3824

7590 04/08/2008
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
GORT, ELAINE L

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
04/08/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
07/14/2004 EAREGAY1 00000084 082025   10888331
02 FC:1201          86.00 CR
03 FC:1202          54.00 CR
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FORM PET651G (Rev. 08/07)

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EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Luchy Roteliuk	: DECISION ON REQUEST FOR
Patent Number	: 7604602	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Yahoo! Inc.
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Nathaniel E. Koechley	: DECISION ON REQUEST FOR
Patent Number	: 7640498	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **68** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of
Debenedictis, Herron, Sink, Eimerl, Lemberg,
Voevodkin, and Black
Application No.: 10/888,356
Filed: July 9, 2004
Attorney Docket No: 23920-09289
For: METHOD AND APPARATUS FOR FRACTIONAL PHOTO THERAPY OF SKIN

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 12, 2004 (certificate of mailing dated November 8, 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.

The above-cited application was filed on July 9, 2004, without a properly executed declaration. On September 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, and the payment of the filing fee. On November 12, 2004, the instant petition was filed with evidentiary documents and statements.

Petitioner has shown that inventor Black has refused to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Black
c/o Christine Long, Esq.
Berliner Cohen, LLP
10 Almaden Boulevard, 11th Floor
San Jose, CA 95113

COPY MAILED

JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Debenedictis, Herron, Sink, Eimerl, Lemberg, :
Voevodkin, and Black :
Application No. 10/888,356 : LETTER
Filed: July 9, 2004 :
Attorney Docket No.23920-09289 :
For: METHOD AND APPARATUS FOR FRACTIONAL PHOTO THERAPY OF SKIN

Dear Mr. Black:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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United States Patent and Trademark Office
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PATENT SOLUTIONS
4025 CARMEL VIEW ROAD
APT. 124
SAN DIEGO CA 92130

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Dirk VAN DEN BOOM et al.	:	
Application No. 10/888,359	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. SEQ.001.P	:	

This is a decision on the petition under 37 CFR 1.137(b), August 4, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 23, 2004, which set a shortened statutory 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 November 24, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1). Petitioner has submitted a total of $1989 which has been applied as follows: $750 for the required petition fee; $395 for the statutory filing fee; $65 for the late oath or declaration surcharge; $600 for independent claims in excess of three; and $179 is being held in suspense. Petitioner owes $1475 (for 59 total claims in excess of 20) minus $179 (held in suspense) for a total fee due of $1296. Petitioner has further failed to submit: (1) a proper oath or declaration as the submitted declaration fails to properly refer to the application by serial number and filing date; and (2) an initial computer readable form (CRF) of the "Sequence Listing".

Petitioner further states that the Office committed an error by mailing the Notice to File Missing Parts of Nonprovisional Application to the wrong address. Petitioner submits a copy of a Change of Address for Registered Patent Attorneys and Agents form with an "Express Mail" receipt dated July 30, 2001 as evidence that a change of address was submitted.

MPEP 403 states:

PATENT APPLICATION FILED WITHOUT CORRESPONDENCE ADDRESS

In accordance with the provisions of 35 U.S.C. 111(a) and 37 CFR 1.53, a filing date is granted to a nonprovisional application for patent filed in the U.S. Patent and Trademark Office, if it includes at least a specification containing a description pursuant to 37 CFR 1.71 and at least one claim pursuant to 37 CFR 1.75, and any drawing referred to in the specification or required by 37 CFR 1.81(a). If a nonprovisional application which has been accorded a filing date does not include the appropriate filing fee, or oath or declaration, the applicant will be so notified and given a period of time within which to file the missing parts to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(e) in order to prevent abandonment of the application. If a provisional application which has been accorded a filing date does not include the appropriate filing

fee, or the cover sheet, the applicant will be so notified and given a period of time within which to file the missing parts to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(l) in order to prevent abandonment of the application.

In order for the Office to so notify the applicant, a correspondence address must also be provided by the applicant. The address may be different from the post office address of the applicant. For example, the address of the applicant's registered attorney or agent may be used as the correspondence address. If the applicant fails to provide the Office with a correspondence address, the Office will be unable to provide the applicant with notification to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(e) for nonprovisional applications and 37 CFR 1.16(l) for provisional applications. In such a case, the applicant will be considered to have constructive notice as of the filing date that the application must be completed and the applicant will have 2 months from the filing date in which to do so before abandonment occurs.

The periods of time within which the applicant must complete the application may be extended under the provisions of 37 CFR 1.136. Applications which are not completed in a timely manner will be abandoned.

37 CFR 10.11(a) states:

Registered attorneys and agents shall notify the Director of any change of address. Any notification to the Director or any change of address shall be separate from any notice of change of address filed in individual applications.

The showing of record is that: (1) petitioner filed the above-identified application on July 9, 2004 without a correspondence address; and (2) petitioner filed a Change of Address for Registered Patent Attorneys and Agents, which form states "this address change is only for the roster of Attorneys and Agents and will not change the address of any applications in the patent process." Therefore, no error has occurred on the part of the Office as petitioner failed to provide a correspondence address in the application papers and as stated in MPEP 403 applicant has constructive notice as of the filing date that the application must be completed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

Application No. 10/888,359

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 David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: David B. Waller & Associates
5677 Oberlin Drive, Suite 214
San Diego, CA 92121

UNITED STATES 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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SAN DIEGO CA 92130

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Dirk VAN DEN BOOM et al. :
Application No. 10/888,359 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No. SEQ.001.P :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 23, 2004, which set a shortened statutory 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 November 24, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees, oath or declaration, and initial computer readable form (CRF) of the "Sequence Listing"; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of September 23, 2004, 2004 is accepted as having been unintentionally delayed.

Petitioner is advised that the file does not indicate a change of address has been submitted, even though 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. For petitioner's convenience a copy of form PTO/SB/123 CHANGE OF CORRESPONDENCE ADDRESS *Patent* is being attached to this decision.

Application No. 10/888,359

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

The application is being referred to the Office of Initial Patent Examination.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: David B. Waller & Associates
5677 Oberlin Drive, Suite 214
San Diego, CA 92121

Attachment: form PTO/SB/123 CHANGE OF CORRESPONDENCE ADDRESS *Patent*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID B. WALLER & ASSOCIATES
5677 OBERLIN DRIVE
SUITE 214
SAN DIEGO CA 92121

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Dirk VAN DEN BOOM et al. :
Application No. 10/888,359 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No. SEQ.001.P :

This is a decision on the petition under 37 CFR 1.181(a)(3), filed February 21, 2006, for review of the refusal of Office of Initial Patent Examination to refund the petition fee submitted August 4, 2005 in the above-identified application.

The petition is **DENIED**[1].

BACKGROUND

On September 23, 2004 a Notice to File Missing Parts of Nonprovisional Application was mailed.

On November 24, 2004 the application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application.

On August 4, 2005 a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) was filed along with a request that the $750 petition fee be refunded as the Office committed an error by mailing the Notice to File Missing Parts of Nonprovisional Application to the wrong address.

On August 24, 2005 a decision was mailed dismissing the petition under 37 CFR 1.137(b) and refusing the request for refund.

On September 9, 2005 a renewed petition under 37 CFR 1.137(b) was filed.

On October 4, 2005 a decision was mailed granting the petition under 37 CFR 1.137(b).

On December 19, 2005 a letter was mailed refusing petitioners request for a refund of the petition fee.

In the instant petition, petitioner requests that the $750 petition fee be refunded as the Office committed an error by mailing the Notice to File Missing Parts of Nonprovisional Application to the wrong address.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. § (2)(B)(2) provides, in part, that:

> The Office-- may, establish regulations, not inconsistent with law, which
>
> (A) shall govern for the conduct of proceedings in Office.

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." Specifically, 35 U.S.C. § 41(a)(7) provides that the Director shall charge:

> On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1500, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $500.

35 U.S.C. § 42(d) provides:

> The director may refund any fee paid by mistake or any amount paid in excess of that required.

37 CFR 1.26(a) provides, in part, that:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollar or less unless a refund is specifically requested, and will not notify the payor of such amounts.

37 CFR 1.33(a) provides, in part, that:

> When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing.

37 CFR 1.137(b) provides:

> Unintentional. Where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to this paragraph. A grantable petition pursuant to this paragraph must be accompanied by:
> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) The petition fee as set forth in § 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 (c) of this section.

35 U.S.C. 133 provides:

> 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 is 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.

MPEP 403 provides:

> PATENT APPLICATION FILED WITHOUT CORRESPONDENCE ADDRESS
>
> In accordance with the provisions of 35 U.S.C. 111(a) and 37 CFR 1.53, a filing date is granted to a nonprovisional application for patent filed in the U.S. Patent and Trademark Office, if it includes at least a specification containing a description pursuant to 37 CFR 1.71 and at least one claim pursuant to 37 CFR 1.75, and any drawing referred to in the specification or required by 37 CFR 1.81(a). If a nonprovisional application which has

been accorded a filing date does not include the appropriate filing fee, or oath or declaration, the applicant will be so notified and given a period of time within which to file the missing parts to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(e) in order to prevent abandonment of the application. If a provisional application which has been accorded a filing date does not include the appropriate filing fee, or the cover sheet, the applicant will be so notified and given a period of time within which to file the missing parts to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(l) in order to prevent abandonment of the application.

In order for the Office to so notify applicant, a correspondence address must also be provided by the applicant. For example, the address of the applicant's registered attorney or agent may be used as the correspondence address. If the applicant fails to provide the Office with a correspondence address, the Office will be unable to provide the applicant with notification to complete the application and to pay the surcharge as set forth in 37 CFR 1.16(e) for nonprovisional applications and 37 CFR 1.16(l) for provisional applications. In such a case, the applicant will be considered to have constructive notice as of the filing date that the application must be completed and the applicant will have 2 month from the filing date in which to do so before abandonment occurs.

The periods of time within which the applicant must complete the application may be extended under the provisions of 37 CFR 1.136. Applications which are not completed in a timely manner will be abandoned.

OPINION

The standard for review of the action or inaction of any employee or operation within the U.S. Patent and Trademark Office is whether that employee or operation acted in an arbitrary and capricious matter, such that the action or inaction was tantamount to an abuse of discretion. However, a review of the refusal to refund the petition fee in question fails to demonstrate any abuse of discretion.

The applicable statute, 35 U.S.C. 42(d), authorizes the Director to refund "any fee paid by mistake or any amount paid in excess of that required." Thus, the U.S. Patent and Trademark Office (USPTO) may refund: (1) a fee paid when no fee is required (i.e., a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r pats. 1943)(the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). In the situation, as herein, in which an applicant takes an action "by mistake" (e.g., files a petition "by mistake"), the submission of fees required to take that action (e.g., a petition fee submitted with a petition) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d). See Changes to Implement the Patent Business Goals, Notice of Proposed Rulemaking, 64 FR 53771, 53780 (October 4, 1999), 1228 Off. Gaz. Pat. Office, 15, 23 (November 2, 1999).

35 U.S.C. 41(a)(7) requires that the Director charge a fee of $1500 on filing each petition for the revival of an unintentionally abandoned application for a patent. In this regard, there was no mistake relating to the payment itself. Petitioner is reminded that the use of "shall" appears in 35 U.S.C. 41(a) pertaining to the collection of fees upon the filing of a petition for the revival of an unintentionally abandoned application for a patent. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Director charge, and the applicant pay, the fees specified by statute upon presentation of a request for a service by the USPTO. See BEC Oressyre /Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). As such, the petition fee was due when such was submitted to the USPTO on August 4, 2005, and was paid in the correct amount. Id. The language of the statute does not permit the Director any discretion with respect to charging the fees set forth therein. Id.

Furthermore, that petitioner may have erred in presenting the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) to the USPTO for this application does not warrant a finding that the payment was made "by mistake." Rather, the fee was owed at the time it was paid. As noted in 37 CFR 1.26(a), petitioner's change of purpose does not constitute a "mistake" in payment warranting refund of the fees previously paid. The payment of the fee automatically was due, by statute, when petitioner presented, rightly, or wrongly, the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b). Thus, it is immaterial to the question of "mistake" in payment of the instant petition fee, that petitioner may have erred in submitting the aforementioned submission. Here, it is noted, that petitioner requested revival of the above-identified application under 37 CFR 1.137(b) and did not request any other form of relief.

Petitioner requests that the $750 petition fee be refunded as the Office committed an error by mailing the Notice to File Missing Parts of Nonprovisional Application to the wrong address. Petitioner asserts that the correspondence address appears on the post card and on the Express Mailing receipt submitted with the application and thus, the agent's correct address was provided elsewhere in a clearly identifiable manner in any paper submitted with the application. Moreover, petitioner submits that the Office of Enrollment and Discipline had previously been provided with petitioner's correct address.

A thorough review of the application file reveals that none of the application papers contains a clearly identifiable correspondence address; therefore one can only speculate as to how a clerk at the USPTO may have obtained petitioner's previous address. Additionally, while petitioner may have provide a correct address on a return post card and Express Mailing receipt this "fugitive information" is not kept as part of the application file and thus, these documents are not considered to be papers submitted with an application filing. Moreover, neither a return post

card nor Express Mail receipt is clearly identifiable as a correspondence address for the application. Additionally, that petitioner filed a Change of Address for Registered Patent Attorneys and Agents, which form states "this address change is only for the roster of Attorneys and agents and will not change the address of any applications in the patent process" is immaterial to the issue at hand as this paper is not a change in correspondence address in accordance with 37 CFR 1.33(a) and MPEP 403. Therefore, there is no mistake on the part of the Office in the mailing of the Notice to File Missing Parts of Nonprovisional Application.

DECISION

A review of the record indicates that the Office of Initial Patent Examination did not abuse its discretion or act in an arbitrary manner in its December 19, 2005 treatment of the request for refund. The record establishes that the Office of Initial Patent Examination had a reasonable basis to support its findings and conclusion that petitioner is not entitled to have the petition fee refunded.

The petition is granted to the extent that the decision of the Office of Initial Patent Examination of December 19, 2005 has been reviewed, but is denied with respect to making any change therein. As such, the decision of December 19, 2005 will not be disturbed. The petition is **denied**. The petition fee will not be refunded.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Charles Pearson
Director, 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

National Starch LLC
Patent Dept. Karen Kaiser
10 Finderne Avenue
Bridgewater NJ 08807-0500

MAILED
MAY 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Yeli Zhang et al.	:	
Application No. 10/888,360	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 3079.PHM	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2010, 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 final Office action mailed, July 22, 2009, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 23, 2009. A reply was received on December 1, 2009, but was not proper reply under 37 CFR 1.113(a) to the final rejection.

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).

As to item (3) the petition does not include a proper statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAY 25 2010

OFFICE OF PETITIONS

National Starch LLC
Patent Dept. Karen Kaiser
10 Finderne Avenue
Bridgewater NJ 08807-0500

In re Application of	:	
Yeli Zhang et al.	:	
Application No. 10/888,360	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 3079.PHM	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 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 final Office action mailed, July 22, 2009, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 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 an Appeal Brief, with the required fee of $540, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the Appeal Brief is accepted as being unintentionally delayed.

The petition decision mailed on May 4, 2010, dismissed the petition filed on February 18, 2010 for failure to include a proper statement of unintentional delay. The renewed petition includes a proper statement.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Board of Patent Appeals and Interferences for further consideration.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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OCT 17 2006
OFFICE OF PETITIONS

PEARSON & PEARSON, LLP
10 George Street
Lowell, MA 01852

In re Application of :
Thomas : DECISION ON PETITION
Application No. 10/888,382 :
Filed: July 9, 2004 :
Docket No.: 33299 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 24, 2006.

The petition is hereby **GRANTED**.

This application became abandoned May 16, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed February 15, 2006. Notice of Abandonment was mailed June 28, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Jones Day
500 Grant Street
Suite 3100
Pittsburgh, PA 15219-2502

ON PETITION

In re Application of
Michael W. Bigrigg
Application No. 10/888,395
Filed: July 9, 2004
Attorney Docket No. DB001115-000

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 16, 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 August 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2857 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of :
William F. Harris :
Application No. 10/888,396 :
Filed: July 9, 2004 :
Attorney Docket No. **047802/279577** :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 14, 2007, 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 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.

The instant pending application was filed on July 9, 2004, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed 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 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 non-provisional 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 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 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 application, accompanied 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 3600, Art Unit 3625 for appropriate action on the amendment filed September 14, 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 non-provisional application.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

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Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of :
Maccaferri :
Application No. 10/888,412 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No. 8021-91867 :
For: A DEVICE FOR DECORATING OBJECTS, IN PARTICULAR CONTAINER, AND THE RELATIVE PROCEDURE

This is a decision on the petition under 37 CFR 1.181, filed May 18, 2006 (certificate of mailing date May 16, 2006) to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **granted**.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed on May 17, 2005, which set an extendable two month period to submit an executed oath/declaration and a surcharge for its late filing. The Office has no record of receiving an extension of time or a reply to the May 17, 2005 Notice in application no. 10/888,412. Therefore, the Office considered the application abandoned on July 18, 2005. A Notice of Abandonment was mailed on January 27, 2006.

Petitioner asserts that a proper response in the form of an executed declaration and evidence of its filing on July 9, 2004 was filed on May 31, 2005. Petitioner explains that through inadvertent error, petitioner listed the application number as 10/487,771 on the May 31, 2005 reply. Therefore, the reply was not associated with application no. 10/888,412's file.

A review of the copy of the reply shows that petitioner cited application no. 10/487,771. A review of the contents of the application no. 10/487,771 reveals that the May 31, 2005 reply is present.

Even though petitioner cited the wrong application number on the reply, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the May 31, 2005 correspondence with this

application file. A cross-referencing of any of the accurate identifiers found on the reply with Office databases would have revealed the typographical error.

The undersigned will request that the May 31, 2005 correspondence be removed from the file of application no. 10/487,771 and placed in the file of the above-identified application.

The May 31, 2005 reply was timely filed. However, petitioner's evidence that an executed declaration was filed on July 9, 2004 is lacking. The itemized postcard receipt does not appear to be date stamped by the Office. The transmittal letter and certificate of Express Mail deposit establish, at most, an intent to file an executed declaration. Fortunately, petitioner authorized the Office to charge any required fees, such as the surcharge, to deposit account no. 23-0920. Therefore, a complete reply was timely filed on May 31, 2005. Deposit account no. 23-0920 will be charged the $65.00 surcharge.

Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Pittsfield, MA 01201-3697

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OFFICE OF PETITIONS

In re Application of	:	
Kim G. Balfour et al.	:	
Application No. 10/888,422	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 137294-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 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 final Office action mailed June 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2007. A Notice of Abandonment was mailed on February 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1796 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Richard C. Ewers et al.
Application No. 10/888,439
Filed: July 8, 2004
Attorney Docket No. 021496-002420US

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 September 6, 2007.

The request is **APPROVED**.

A review of the file record indicates that James M. Heslin and all attorneys/agents associated with customer number 20350: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 20350 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) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

A final rejection was mailed on June 8, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Richard C. Ewers
1437 West Malvern Avenue
Fullerton, CA 92833

cc: Johney Han
Levin Bagade Han LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

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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
10/888,439	07/08/2004	Richard C. Ewers	021496-002420US

CONFIRMATION NO. 2576

OC000000025946981

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

K. Brabmit

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of	:
Mizuno	: DECISION REFUSING
Application No. 10/888,468	: STATUS UNDER
Filed: July 9, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 09792909-5931	:
For: EXPOSURE SYSTEM AND EXPOSURE METHOD	:

This is in response to the petition under 37 CFR 1.47(b), filed February 14, 2005 (certificate of mailing date February 11, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 9, 2004 without an executed oath or declaration. Accordingly, on August 31, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on February 14, 2005 (certificate of mailing date February 11, 2005), petitioner filed a petition for a four month extension of time and required fee; a copy of Secrecy Declaration dated February 1, 2001 and executed by non-signing inventor Shinichi Mizuno that shows the inventor had a duty to assign rights in the invention to Sony Corporation; a declaration for patent application signed by a person on behalf of Sony Corporation; the surcharge;; the petition fee; and

the instant petition.[1]

A declaration of facts of Miyuki Andou, a representative of Sony Corporation, accompanies the petition. Ms. Andou explains that two copies of the application as filed and a declaration, power of attorney, and assignment were mailed to the last known address of Mr. Mizuno. Mr. Mizuno refused to sign or return an executed document during conversations with Ms. Andou that took place on September 17, 2004 and September 30, 2004.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(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), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is signed by an unknown person on behalf of Sony Corporation and the identifying information for the non-signing inventor is not acceptable.

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

The representative should **not** sign in the inventor's signature block. The non-signing inventor's signature block should be left blank to avoid ambiguity regarding his execution of the document. Petitioner should create a new declaration that contains Mr. Mizuno's correct information and another entry for the representative of the corporation to sign.

Regarding Mr. Mizuno's correct information, the last known address for Mr. Mizuno should be utilized in the declaration in the post office address and residence fields. MPEP 605.03 states that in situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be utilized. Mr. Mizuno does not receive mail at Sony Corporation anymore.

---

[1] Pursuant to petitioner's authorization, deposit account no. 19-3140 will be charged the required $200.00 Rule 47 petition 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: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 061080
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CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of	:
Mizuno	: DECISION ACCORDING
Application No. 10/888,468	: STATUS UNDER
Filed: July 9, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 09792909-5931	:
For: EXPOSURE SYSTEM AND EXPOSURE METHOD	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed May 31, 2005.

The petition is granted.

The above-identified application was filed on July 9, 2004 without an executed oath or declaration. Accordingly, on August 31, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on February 14, 2005 (certificate of mailing date February 11, 2005), petitioner filed a petition for a four month extension of time and required fee; a copy of Secrecy Declaration dated February 1, 2001 and executed by non-signing inventor Shinichi Mizuno that shows the inventor had a duty to assign rights in the invention to Sony Corporation; a declaration for patent application signed by a person on behalf of Sony Corporation; the surcharge; the petition fee; and the instant petition.

A declaration of facts of Miyuki Andou, a representative of Sony Corporation, accompanied the petition. Ms. Andou explains that two copies of the application as filed and a declaration, power of attorney, and assignment were mailed to the last known address of Mr. Mizuno. Mr. Mizuno refused to sign or return an executed document during conversations with Ms. Andou that took place on September 17, 2004 and September 30, 2004.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(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.

The February 14, 2005 (certificate of mailing date February 11, 2005) petition was dismissed on April 7, 2005 for failure to comply with item (2) set forth above.

With the instant reconsideration petition, Rule 47(b) applicant has submitted an acceptable declaration.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Publications Division.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHINICHI MIZUNO
BELL EPOQUE 203
6-18, SHIRAHATA 2-CHOME
SAITAMA-SHI, SAITAMA
JAPAN

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OFFICE OF PETITIONS

In re Application of	:	
Mizuno	:	
Application No. 10/888,468	:	LETTER
Filed: July 9, 2004	:	
Attorney Docket No. 09792909-5931	:	
For: EXPOSURE SYSTEM AND EXPOSURE METHOD	:	

Dear Mr. Mizuno:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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Charles M. Schwartz
Moldex-Metric, Inc.
10111 W. Jefferson Blvd.
Culver City CA 90232

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OFFICE OF PETITIONS

In re Application of	:	
Mark MAGIDSON	:	
Application No. 10/888,471	:	ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. D-143	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 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 Notice to the applicant regarding a Non-Compliant Amendment mailed August 24, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 25, 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 amendment; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to Notice to the applicant regarding a Non-Compliant Amendment of August 24, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3771 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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BLOOMFIELD HILLS MI 48304-0610

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In re Application of	:	
Freytag et al.	:	
Application No. 10/888,492	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 66267-0002	:	

This is a decision on the petition, filed July 17, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice to File Missing Parts mailed August 26, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before October 26, 2004. A Notice of Abandonment was mailed on June 28, 2006.

Petitioner states that a response was timely filed on October 28, 2004 (Certificate of Mailing date of October 26, 2004) in the form of a Combined Declaration and Power of Attorney. However, the reply was incomplete, as it did not address the requirement to comply with 37 CFR 1.821-1.825 set forth in the Notice. Accordingly, the application was properly abandoned.

As stated in the Notice, applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d)

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in

late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A blank petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Freytag et al.	:	
Application No. 10/888,492	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 66267-0002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration and the Sequence Listing, (2) the petition fee, and (3) a proper statement of unintentional delay.

The petition fee has increased to $770.00, effective September 30, 2007. Accordingly, $770.00 will be collected from petitioner's deposit account as previously authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LINIAK, BERENATO & WHITE, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Robertson, et al.
Application No.: 10/888,495
Filed: July 12, 2004
Attorney Docket No.: 6222.430
For: VANE-TYPE ROTARY APPARATUS WITH SPLIT VANES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 31, 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 inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 12, 2004 without an executed declaration. On August 30, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath/declaration and a surcharge for its late filing. In response, on January 31, 2005, petitioners filed, *inter alia*, a request for a three (3) month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge,and a Rule 47 petition with the required $200 fee. The petition is accompanied by a declaration of Attorney William C. Schrot that states that Patrick R. Badgley, the non-signing inventor, was successfully mailed a copy of the application as filed and a declaration for his signature, but Mr. Badgley has not returned an executed declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),

(3) the fee of $200 as specified in 37 CFR § 1.17(g), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), the oath or declaration is not acceptable. See MPEP 409.03(a) Petitioners are reminded that all inventors must make declaration on their own behalf **and** on the behalf of the non-signing inventor. In this instance, only the first named inventor made declaration/signed on behalf of the non-signing inventor.

The simplest way to remedy the problem is to submit a **newly executed** declaration in which the signing inventors sign in their respective signature blocks and the nonsigning inventor's signature block is left blank.

In addition, please use the last known address and the full name of the non-signing inventor on the declaration. It is noted that his name is listed as "Pat Badgley" on the declaration executed 6/29/04.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

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

ADE & COMPANY INC.
2157 Henderson Highway
WINNIPEG MB R2G1P-9 CA CANADA

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DEC 27 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ames, et al. :
Application No. 10/888,502 :
Filed: July 12, 2004 :
Attorney Docket No. 80694-902 :
For: PROCESSED BARLEY FOOD PRODUCTS

This is a decision on the petition, filed October 15, 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 November 22, 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 February 23, 2007. A Notice of Abandonment was mailed on June 7, 2007.

Applicants have submitted an amendment in reply to the November 22, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the November 22, 2006 non-final Office action, and the $1,540.00 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 A.U. 1794 for consideration of the amendment filed on October 15, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CANADA

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MAY 12 2008

In re Application of	:	
Cantin et al.	:	
Application No. 10/888,507	:	DECISION ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. SB 15396-6	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 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 25, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 25, 2007 . Accordingly, the date of abandonment of this application is January 26, 2008 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $ 720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for processing into a patent.

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of
Marshall, et al.
Application No. 10/888,522
Filed: July 10, 2004
Atty. Dkt. No.: 0275R-000742
For: UTILITY VACUUM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed November 22, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed July 10, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed September 22, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (1) set forth above.

Petitioners allege joint inventor Damon J. Nawrozki cannot be reached or refused to execute the declaration after having been presented with the application papers.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners herein have failed to provide proof of any efforts made to locate the non-signing inventor.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further, petitioners have failed to present any evidence that Damon J. Nawrozki refused to execute the declaration after having been presented with a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventor received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application

papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 308-6916

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Application of	:
Marshall, et al.	: DECISION REFUSING STATUS
Application No. 10/888,522	: UNDER 37 CFR 1.47(a)
Filed: July 10, 2004	:
Atty. Dkt. No.: 0275R-000742	:
For: UTILITY VACUUM	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 27, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 July 10, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed September 22, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47 was filed November 22, 2004 and dismissed December 16, 2004.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy item (1) set forth above.

The instant renewed petition indicates that inventor Damon J. Nawrozki cannot be reached at the inventor's last known address. However, the petition fails to establish that diligent effort has been made to determine the current whereabouts of the inventor. The extent of efforts to locate the inventor detailed in the renewed petition indicates that the U.S. Postal Service was unable to provide petitioners with a forwarding address for the inventor.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the employee records, internet, and telephone directories should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Marshall, et al. : DECISION GRANTING STATUS
Application No. 10/888,522 : UNDER 37 CFR 1.47(a)
Filed: July 10, 2004 :
Atty. Dkt. No.: 0275R-000742 :
For: UTILITY VACUUM :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed April 8, 2005.

The petition is **GRANTED**.

Petitioner has shown that despite diligent effort to do so, inventor Damon Nawrozki cannot be reached or located for presentation of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

DAMON NAWROZKI
3101 Batavia Ave.
Baltimore, Maryland 21214

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JUL 29 2005
OFFICE OF PETITIONS

In re Application of	:	
Marshall, et al.	:	
Application No. 10/888,522	:	LETTER
Filed: July 10, 2004	:	
Atty. Dkt. No.: 0275R-000742	:	
For: UTILITY VACUUM	:	

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/29/2010

Applicant	: Christoph Schwarz	: DECISION ON REQUEST FOR
Patent Number	: 7626060	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/888,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **879** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 23 2009

OFFICE OF PETITIONS

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of	:	
Mejdi Trimeche et al.	:	
Application No. 10/888,534	:	DECISION ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 915-005.119	:	

This is a decision on the petition, filed August 13, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 1, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on August 1, 2007.

Petitioner asserts that the Office action dated March 1, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The $400 petition fee is not required and is refunded to petitioner's deposit account.

This application is being referred to the Technology Center technical support staff of Art Unit 2624 for re-mailing the Office action of March 1, 2006. The period for reply will run from the mailing date of the Office action.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

In re Application of: CUMMING, J. STUART et al. Serial No. 10/888,536 Filed: Jul. 8, 2004 Docket: 13533.4043 Title: ACCOMMODATING HYBRID INTRAOCULAR LENS	9/10/08 DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Jun. 26, 2008 petitioning the Director under 37 CFR § 1.181 for withdrawal of a requirement for information or, alternatively, acceptance of submitted information as a complete response satisfying the requirement under 37 CFR § 1.105. This petition is being considered pursuant to 37 CFR 1.181, and no fee is required. The petition fee of $400.00 paid will be refunded upon request.

The petition is dismissed.

Background

The examiner assigned the application mailed a 37 CFR § 1.105 requirement to applicants on Feb. 12, 2008 requiring applicants to disclose all co-pending applications and related patents to the application being examined and identify the specific claims of those applications and/or patents which may present double patenting issues with the instant application claims. The examiner cites no less than twelve applications and eleven patents that the examiner presently is aware of and believes may be related and have overlapping subject matter. The examiner makes the requirement on the basis that applicants or the assignee are presumably far more cognizant of the contents of the claims in these applications than any Office staff, and has access to the source documents by which comparisons could be done better than within the Office for the examiner to thereby determine the commonality among the claims by this information.

Petitioner submits that the examiner's requirement is beyond the scope 37 CFR § 1.105. It is petitioner's position that the Examiner is requiring more than facts or factual information as intended by 37 CFR § 1.105 but is instead requiring an opinion by requiring an evaluation of the

claims of any of the listed and to be listed applications and patents that may be related with respect to statutory or obviousness-type double patenting.

Discussion

MPEP 704.11 states "[T]he terms "factual" and "facts" are included in 37 CFR § 1.105 to make it clear that it is facts and factual information, that are known to applicant, or readily obtained after reasonable inquiry by applicant, that are sought, and that requirements under 37 CFR § 1.105 are not requesting opinions that may be held or would be required to be formulated by applicant." This section further states "[T]he purpose of 37 CFR § 1.105 is to improve patent quality, and render better decisions, and not to put applicants in jeopardy of meeting their duties of candor and good faith in their replies to a requirement for information."

From a recent Federal Circuit decision:

> Scope of information that may be required from applicant by patent examiner pursuant to 37 C.F.R. §1.105 encompasses information relevant to patent examination either procedurally or substantively, and includes zone of information beyond that defined by 37 C.F.R. §1.56 as material to patentability, and beyond that which is directly useful to support rejection or conclusively decide issue of patentability, since Section 1.105(a)(1) states that PTO may "require the submission ... of such information as may be reasonably necessary to properly examine or treat the matter"[.] Star Fruits S.N.C. v. United States, 73 USPQ2d 1409 (Fed. Cir. 2005).
>
> Duty of candor embodied in 37 C.F.R. §1.56 does not give patent applicant power to refuse requirement for information under 37 C.F.R. §1.105, since neither regulation states that response to such requirement may be limited, at applicant's discretion, to whatever applicant believes it might be affirmatively required to submit under Section 1.56, since language in Section 1.105(a)(1), which permits PTO to "require the submission ... of such information as may be reasonably necessary to properly examine or treat the matter," expressly states that PTO, not applicant, controls scope of requirement for information, and since scope of information that may be required under Section 1.105 is broader than information that applicant is duty bound to provide under Section 1.56. Star Fruits S.N.C. v. United States, 73 USPQ2d 1409 (Fed. Cir. 2005).
>
> United States Patent and Trademark Office can use requirement for information under 37 C.F.R. §1.105 to compel disclosure of information that patent examiner deems pertinent to patentability, even if applicant disagrees with examiner concerning significance of information to ultimate question of whether application discloses patentable subject matter, since PTO is clearly entitled to use Section 1.105 to seek information that may support rejection, and since examiner is charged with duty of deciding whether patent should issue from application, and so long as examiner's request for information is not arbitrary or capricious, applicant cannot impede examiner's performance of that duty by refusing to comply with information requirement that proceeds from examiner's view of scope of law to be applied to application. Star Fruits S.N.C. v. United States, 73 USPQ2d 1409 (Fed. Cir. 2005).

If an applicant were required to make an admission that the claims of one application or patent read on the claims of another, it would appear that this would be beyond the scope of 37 CFR § 1.105. However, in the present situation, applicants are not being asked this but to identify claims that *may* present double patenting issues. Applicants would be making comparisons to identify similarities in the claims. This is not an admission that the claims conflict. The Examiner still will determine this. The applicants would be identifying observed facts and then the Examiner would render an opinion from these facts. Thus, an opinion is not being required. Nevertheless, it appears that the court considers forms of opinion relevant and within the authority of the Examiner to require.

> ...Other requirements for information are also foreseeable under the "reasonably necessary to properly examine or treat the matter" standard. For instance, it might be reasonably necessary for the Office to require an explanation of technical material in a publication, such as one of the inventor's publications, or require the applicant's comments on a recent Federal Circuit opinion and how that opinion affects examination. ... The final rule permits that "the examiner or other Office employee may *require the submission* ... of such information as may be reasonably necessary to properly examine or treat the matter." 37 C.F.R. 1.105(a) (1) (emphasis added) Star Fruits S.N.C. v. United States, 73 USPQ2d 1409 (Fed. Cir. 2005).
>
> Through notice and comment rulemaking the Office made explicit the inherent authority of Office employees to require information from an applicant. The goal is to "encourage" employees to use that power to "perform the best quality examination possible." Star Fruits S.N.C. v. United States, 73 USPQ2d 1409 (Fed. Cir. 2005).

Opinion is clearly permitted. For that matter, when an applicant cites any reference for consideration before the examiner, is that not opinion as to what is believed material to patentability under 37 CFR § 1.56? When the examiner requires submission of information under 37 CFR § 1.105 that may be material to patentability, isn't an applicant making an opinion of judgment for factual information that may be material to patentability? The information "improve[s] patent quality, and render[s] better decisions" (MPEP 704.11) but does not put applicants in jeopardy of meeting their duties of candor and good faith under 37 CFR § 1.56 in their replies to a requirement for information under 37 CFR § 1.105.

In this application, the identification of claims which may raise issues of double patenting required in the Feb. 12, 2008 Office action is material to double patenting considerations and thus is consistent with the above passage of 37 CFR 1.56(a)(2). Further, the relationship between 37 CFR 1.56 and 37 CFR 1.105 is explicitly stipulated in MPEP 704.12(a)[1]. In the

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[1] MPEP 704.12(a)Relationship of Requirement for Information to Duty of Disclosure [R-2]
The duty of candor and good faith under 37 CFR 1.56 applies to the applicant's reply to a requirement for information under 37 CFR 1.105, and requires that the applicant reply to a requirement under 37 CFR 1.105 with information reasonably and readily available.

instant application, the patents and applications listed in the Feb.12, 2008 letter are all from the same inventor as in the present application so the information therefrom should be readily available. Thus, the Feb. 12, 2008 requirement for information was made in accordance with the rules and procedures governing patent examination.

Since the period for reply set forth in the prior Office action has expired, this application became abandoned on May 27, 2008, for lack of a proper response to the non-responsive Office action of Apr. 23, 2008 within the period as stated in 37 CFR 1.134.

Conclusion

Ultimately, the purpose in requiring applicants to identify claims in the identified and yet to be identified related applications and patents is to improve the quality of examination by the examiner with respect to statutory and obviousness-type double patenting particularly in view of the significant number of applications and patents involved. In view thereof, the examiner's requirement is not seen as unreasonable and is seen as within the scope of 37 CFR § 1.105.

PETITION DISMISSED.

Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. Petitioner is reminded that the mere filing of the request will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. See 37 CFR § 1.181(f). A petition to revive under 37 CFR § 1.137, including the required fee and a compliant response to the Feb. 12, 2008 requirement for information under 37 CFR 1.105 and MPEP 704.11(a) subsection G should be separately filed 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.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN, VA 22102

In re Application of	:	
MAMANA, JOHN P.	:	
Application No. 10/888,544	:	**DECISION ON PETITION**
Filed: July 12, 2004	:	
Attorney Docket No. 07440001C1	:	

This is a decision on the Petition To Withdraw Holding of Abandonment under 37 C.F.R.§ 1.181, received in the United States Patent and Trademark Office (USPTO) on August 2, 2006 for the above-identified application.

The application was held abandoned for applicant's failure to timely pay the issue fee, as required in the new Notice of Allowance and Fee(s) Due mailed February 8, 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 MONTHS (2) from the mail date of this decision.

Review of the application file reveals that, on February 1, 2006 the Notice Of Withdrawal From Issue Under 37 CFR 1.313(b) was mailed, indicating that the application is withdrawn from issue after payment of the issue fee due to a mistake on part of the Office. See 37 CFR 1.313(b)(1). The Notice further indicates that, if the application is again found allowable, the issue fee paid can be applied toward the new Notice of Allowance, which was mailed on February 8, 2006, upon written request.

The request to apply the issue fee to the new Notice could have been satisfied by simply completing and returning the new Issue Fee Transmittal Form PTOL-85B.

Also, Petitioner appears to not have read the bold text in the new Notice of Allowance and Fee(s) Due, which states:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Failure to submit the PTOL-85B, Fee(s) Transmittal resulted in the proper abandonment of the application.

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 Petition
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires relating to this decision may be directed to the undersigned at 703 308-9250 ext.164.

Kendrick L. Sprull
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of	:	
John P. Mamana	:	
Application No. 10/888,544	:	DECISION GRANTING PETITION
Filed: July 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 07440001C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of February 8, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACKIE JAY SCHWARTZ
1350 BROADWAY
SUITE 1510
NEW YORK NY 10018

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FEB 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,208,188	:	
Issue Date: April 24, 2007	:	
Application No. 10/888,548	:	ON PETITION
Filed: July 8, 2004	:	
Attorney Docket No. 1083-2	:	

This is a decision on the petition filed June 20, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "NIPPON FREEZE DRYING CO., LTD. (JP); ASAHI FOOD & HEALTHCARE, LTD. (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment to indicate the assignee name as "NIPPON FREEZE DRYING CO., LTD. (JP); ASAHI FOOD & HEALTHCARE, LTD. (JP)" was recorded on October 19, 2007, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
David G. Hosie et al	:	
Application No. 10/888,554	:	DECISION ON PETITION
Filed: July 9, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. WEAT/0385	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3672 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/888,554	07/09/2004	3672	1296	WEAT/0385	36	4

CONFIRMATION NO. 3224

CORRECTED FILING RECEIPT

OC000000024996046

36735
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

Date Mailed: 07/24/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David G. Hosie, Sugar Land, TX;
Michael J. Lynch, Houston, TX;
Jack Allen, Porter, TX;
David Pavel, Kingwood, TX;
Joe Noske, Houston, TX;
Allen R. Young, Houston, TX;
Kenneth M. Nero, Houston, TX;
R.K. Bansal, Houston, TX;
Tuong Thanh Le, Katy, TX;
Kenneth Edmund Rozek, Houston, TX;

Power of Attorney:

Scott Brown--29899
Keith Tackett--32008
Douglass Elliott--32982
William Patterson--34102
Raymond Moser Jr--34682
Barden Patterson--37906
Matthew Patterson--41244
Jeffrey Kubiak--50013
David Haugen--53000

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/485,816 07/09/2003
and is a CIP of 10/288,229 11/05/2002

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 US10/888,554

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus for wellbore communication

Preliminary Class

166

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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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Kim Martin	: DECISION ON REQUEST FOR
Patent Number	: 7611408	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1151** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAGINOT MOORE & BECK
BANK ONE TOWER
SUITE 3000
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Aigner et al	:	
Application No. 10/888,568	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 1890-0108	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed February 16, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 17, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

SHINJYU GLOBAL IP COUNSELORS
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

In re Application of	:	
Hiroyuki Itoyama	:	
Application No. 10/888,583	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. NS-US045088	:	

This is a decision on the petition, filed August 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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) 272-3208.

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Itoyama :
Application No. 10/888,583 :
Filed: July 12, 2004 :
Attorney Docket No.: NS-US045088 :

ON PETITION

This is a decision on the petition, filed February 16, 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 26, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3747 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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THOMPSON LAMBERT
2121 CRYSTAL DR
CRYSTAL PARK TWO
SUITE 703D
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Bob B. Ha	:	
Application No. 10/888,604	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 384-1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed June 19, 2006.[1]

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed February 28, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the above-identified application became abandoned on May 29, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

---

[1] Supplemented on June 20, 2006.

Petition Under 37 CFR 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[2] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action **must** be submitted..."[3]

Although petitioner has submitted a copy of a docket report (an Excel Spreadsheet listing various applications and patents and setting forth the next action to be taken), petitioner has not submitted a docket report showing all his replies docketed for a date three months from the mail date of the Notice of Allowance, or May 28, 2006.

Petition Under 37 CFR 1.137(b):

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue fee, and made the proper statement of unintentional delay.

As the petition was not considered under 37 CFR 1.137(a), the $250 filing fee for a § 1.137(a) petition will be refunded to petitioner under separate cover.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See MPEP 711.03(c)(II).

[3] Id (emphasis added).

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OFFICE OF PETITIONS

In re Application of	:	
Bob B. Ha	:	
Application No. 10/888,604	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. 384-1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed June 19, 2006.[1]

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed February 28, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the above-identified application became abandoned on May 29, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

---

[1] Supplemented on June 20, 2006.

Petition Under 37 CFR 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[2] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action **must** be submitted..."[3]

Although petitioner has submitted a copy of a docket report (an Excel Spreadsheet listing various applications and patents and setting forth the next action to be taken), petitioner has not submitted a docket report showing all his replies docketed for a date three months from the mail date of the Notice of Allowance, or May 28, 2006.

Petition Under 37 CFR 1.137(b):

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue fee, and made the proper statement of unintentional delay.

As the petition was not considered under 37 CFR 1.137(a), the $250 filing fee for a § 1.137(a) petition will be refunded to petitioner under separate cover.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See MPEP 711.03(c)(II).

[3] Id (emphasis added).

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ARTHUR L. LESSLER
540 OLD BRIDGE TURNPIKE
SOUTH RIVER NJ 08882

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OFFICE OF PETITIONS

In re Application of :
ERIC JOHN KOKE : DECISION ON PETITION
Application No. 10/888,605 :
Filed: 07/09/2004 :
Attorney Docket No. KKE-101 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on March 23, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on June 24, 2007. A Notice of Abandonment was mailed on July 18, 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 and publication fees; (2) the petition fee; and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 20 2007

ZYMOGENETICS, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102-3702

In re Application of	:
Thomas E. Palmer et al	:
Serial No.: 10/888,610	: COLOR EXHIBITS
Filed: July 9, 2004	:
Attorney Docket No.: 03-14	:

This is in reply to the petition under 37 CFR 1.184(a)(2) to save color drawings in an exhibit attached to an affidavit in PAIR..

§ 1.103 Suspension of action by the Office.

As noted, the section of the rules cited by applicants is applicable only to drawings filed as part of the application, per se. It does not apply to drawings or exhibits provided as attachments to an affidavit. It is noted that the drawings have been scanned into IFW, but are not in color.

In view of the above the petition is **DENIED.**

Applicants may wish to provide color copies of the drawings or exhibits directly to the examiner by courier or other means as this may be the only way at present to provide color copies in an exhibit to the examiner

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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IntraPace, Inc. & Townsend & Townsend & Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Mir A. Imran	: DECISION ON REQUEST FOR
Patent Number	: 7590452	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IntraPace, Inc. & Townsend & Townsend & Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Mir A. Imran	: DECISION ON REQUEST FOR
Patent Number	: 7590452	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SUITE 600
DALLAS TX 75201-2980

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of Barrett and Barnett Application Number: 10/888629 Filing Date: 07/08/2004 Attorney Docket Number: 063170.6973	: : : : : :	DECISION ON PETITION

This is a decision on the petition, filed on October 2, 2007, which is treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The Office apologizes for the delay in responding to the present petition.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

This application was filed on July 8, 2004. On March 25, 2005, a declaration under 37 CFR 1.63 was filed, naming Kevin R. Barrett and Andrew Barnett as joint inventors.

On May 2, 2007, a final Office action was mailed, setting a three (3) month period for reply.

On October 2, 2007, the present petition, along with a Request for Continued Examination (RCE), submission under 37 CFR 1.114, a petition for a two (2) month extension of time, and a declaration under 37 CFR 1.131 signed by joint inventor Barnett, was filed.

---

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

Petitioners state, via the declaration of Brice Dumais, that a copy of a declaration under 37 CFR 1.131 was sent to Barrett at his last known address, but was returned as undeliverable. It is additionally stated therein that a copy of the declaration was given to joint inventor Barnett, and Barnett was asked to attempt to obtain Barrett's signature on the declaration. However, Barnett stated that Barrett had informed him that "he has no desire to participate in this."

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by all joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

At the outset, the showing of record is deficient in that petitioners have not provided first-hand knowledge of the Barrett's refusal to sign the declaration. Specifically, if Barrett made an oral refusal to Barnett to sign the declaration 37 CFR 1.131, the details of that refusal must be provided in a declaration or statement of facts by Barnett, or by another individual with first-hand knowledge.

Further, with regards to Barrett being unavailable at the address to which the application was sent, a brief Internet search suggests that Barrett may be residing at another address in Houston, TX. Petitioners should verify whether the address provided is current. If a more recent address is found, petitioners may wish to consider sending the 37 CFR 1.131 declaration to Barrett at that address.

If repeated efforts to locate the inventor(s) and obtain the declaration under 37 CFR 1.131 are unsuccessful, petitioners will have shown that the inventor(s) has refused to sign the declaration under 37 CFR 1.131.

It is noted that $200.00 was submitted with the subject petition. The fee for a petition under 37 CFR 1.183, however, is $400.00. The balance due of $200.00 will be charged to counsel's deposit

account as authorized on the Electronic Acknowledgement Receipt filed with the subject petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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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2001 ROSS AVENUE
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DALLAS TX 75201-2980

MAILED

APR 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Barrett and Barnett	:	
Application Number: 10/888629	:	DECISION ON PETITION
Filing Date: 07/08/2004	:	
Attorney Docket Number:	:	
063170.6973	:	

This is a decision on the petition, filed on July 27, 2009, which is treated as a renewed petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by all inventors.[1]

The petition is **GRANTED**.

Petitioners have shown, via the declarations of Brice Dumais, Scientific Advisor, and Ming Shui, Associate, both employed by counsel's law firm, Baker Botts L.L.P., filed with the subject renewed petition, that petitioners attempted contact inventors Kevin R. Barrett and Andrew Barnett by mail at their last known addresses, and also by telephone. A copy of the cover letter transmitting the declaration under 37 CFR 1.131 has been provided with the subject renewed petition. Despite diligent efforts, the inventors could not be reached, or have refused, to sign the declaration under 37 CFR 1.131

In view of the efforts recounted to obtained the signature of joint inventors Kevin R. Barrett and Andrew Barnett, it is agreed that justice would be served by waiving the requirement for their signatures on the declaration filed under 37 CFR 1.131.

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

As the petition fee was previously paid, no further petition fee is due in connection with this petition.

The application is referred to Technology Center Art Unit 2176 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Israel Feldman	: DECISION ON REQUEST FOR
Patent Number	: 7620402	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **993** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 05/17/2010

Applicant : Israel Feldman
Patent Number : 7620402
Issue Date : 11/17/2009
Application No : 10/888,631
Filed : 07/09/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1057** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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THOMAS F. LENIHAN
TEKTRONIX, INC.
14150 S. W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 9707-0001

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
James M. Fenton	:	
Application No. 10/888,641	:	DECISION GRANTING PETITION
Filed: July 8, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7719-US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawing sheet; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability of March 5, 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 Patent Publication and to oversee the drawing sheet submitted on July 11, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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Kenneth P. Glynn, Esq.
Glynn & Associates, P.C.
24 Mine Street
Flemington NJ 08822

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Anthony Solazzo :
Application No. 10/888,659 :
Filed: July 9, 2004 :
Attorney Docket No. ANS-108A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit replacement drawings on or before November 24, 2006 in reply to the Notice of Allowability, mailed August 24, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 21, 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 replacement drawings; (2) the petition fee of $750; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of August 24, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Levine Bagade Han LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
D. Bruce Modesitt	:	
Application No. 10/888,682	:	DECISION ON PETITION
Filed: July 10, 2004	:	TO WITHDRAW
Attorney Docket No. 602672000200	:	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 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 40518 has been revoked by the applicant of the patent application on October 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Morrison & Foerster LLP**
755 Page Mill Road
Palo Alto, CA 94304-1018

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JUN 13 2007

OFFICE OF PETITIONS

Charles E. Baxley
90 John Street, Suite 309
New York, NY 10038

In re Application of:
Chun-Yu Tai
Application No.: 10/888,687
Filed: July 08, 2004
Atty's Docket No.: 14696 B

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed October 18, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice Of Allowance mailed May 22, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August 22, 2006.

On October 18, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein.

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

The instant petition does not satisfy requirements (1). Specifically, while applicant has filed an amendment with corrected drawings, the drawings have been objected to by the Draftsperson under 37 CFR 1.84 or 1.152. A copy of the "Notice of Draftperson's Patent Drawing Review" (Form PTO-948) is enclosed.

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: (703) 872-9306
ATTN: Office of Petitions

It is noted that applicant filed an additional petition to revive in this application on March 23, 2007 regarding the need to file a corrected declaration. Said situation does not apply to the present applicant, the petition filed March 23, 2007 is dismissed as moot and the $750.00 petition fee will be refunded to applicant.

This application remains **ABANDONED**.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

Encl: Form PTO-948

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Charles E. Baxley
90 John Street, Suite 309
New York, NY 10038

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OFFICE OF PETITIONS

In re Application of:	:	DECISION ON RENEWED
Chun-Yu Tai	:	PETITION UNDER
Application No.: 10/888,687	:	1.137(b)
Filed: July 08, 2004	:	
Atty's Docket No.: 14696 B	:	

This is a decision on the renewed petition for revival of the above-entitled application under 37 CFR 1.137(b), filed July 16, 2007.

The renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance mailed May 22, 2006, which set a period for reply of three (3) months. (See Decision mailed June 13, 2007 dismissing applicant's original petition to revive).

On July 16, 2007, applicant filed the present renewed petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of corrected drawings. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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In re Application of	:	
XIAODE XU et al.	:	
Application No. 10/888,691	:	LETTER REGARDING
Filed: July 9, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. CISCO-8906	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed August 28, 2009. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred twenty-five (725) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On June 1, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 816 days. On August 28, 2009, applicant submitted the instant comment. Applicant discloses that applicant believes that the patent term adjustment indicated on the Determination of Patent Term Adjustment appears to be longer than appropriate. Applicant does not state a basis for the request for review of the patent term adjustment.

A review of the application history reveals that applicant is correct. On December 10, 2008, applicants submitted a supplemental reply or paper in the form of a Supplemental Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on September 10, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed December 10, 2008, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 91 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, September 11, 2008, and ending on the date that the IDS was filed, December 10, 2008. Accordingly, a period of reduction of 91 days is being entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 725 days.

As this letter was submitted to advise the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Gay Ann Spahn at (571) 272-8011.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 1/25/2010

PALM INTRANET

Time: 15:52:11

PTA Calculations for Application: 10/888691			
Application Filing Date:	07/09/2004	PTO Delay (PTO):	816
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	725
PTO Delay Adjustment:	-91		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	01/25/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
49	06/01/2009	MAIL NOTICE OF ALLOWANCE	5		42
48	05/29/2009	ISSUE REVISION COMPLETED			
47	05/29/2009	DOCUMENT VERIFICATION			
46	05/29/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	05/26/2009	NOTICE OF ALLOWABILITY			
43	03/10/2009	DATE FORWARDED TO EXAMINER			
42	01/27/2009	RESPONSE AFTER NON-FINAL ACTION			
41	01/08/2009	MAIL NON-FINAL REJECTION			
40	01/05/2009	NON-FINAL REJECTION			
39	12/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	12/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	10/05/2008	DATE FORWARDED TO EXAMINER			
36	09/10/2008	RESPONSE AFTER NON-FINAL ACTION			
35	07/04/2008	CORRESPONDENCE ADDRESS CHANGE			
34	06/13/2008	MAIL NON-FINAL REJECTION			
33	06/09/2008	NON-FINAL REJECTION			
29	03/28/2008	DATE FORWARDED TO EXAMINER			
28	02/28/2008	RESPONSE AFTER NON-FINAL ACTION			
27	11/29/2007	MAIL NON-FINAL REJECTION	811		-1
26	11/26/2007	NON-FINAL REJECTION			
25	12/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	10/17/2007	WITHDRAW FLAGGED FOR 5/25			

23	10/15/2007	FLAGGED FOR 5/25			
22	02/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	10/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	10/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
18.7	12/02/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
18	12/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/12/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
16	04/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	04/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	11/24/2004	NEW OR ADDITIONAL DRAWING FILED			
13	11/08/2004	APPLICATION RETURN FROM OIPE			
12	11/08/2004	APPLICATION RETURN TO OIPE			
11	11/08/2004	APPLICATION DISPATCHED FROM OIPE			
10	11/08/2004	APPLICATION IS NOW COMPLETE			
9	10/27/2004	ADDITIONAL APPLICATION FILING FEES			
8	10/27/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	08/24/2004	CORRECTED PAPER			
5	07/09/2004	PGPUBS NONPUB REQUEST			
4	08/19/2004	CLEARED BY OIPE CSR			
3	08/19/2004	CASE CLASSIFIED BY OIPE			
2	07/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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July 05, 2006

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

Patent No.: 7009888 B2
Application No.: 10/888,693
Inventor(s): MASUOKA, FUJIO
Issued: March 07, 2006
Title: **LOW VOLTAGE, ISLAND-LAYER-BASED NONVOLATILE SEMICONDUCTOR STORAGE DEVICE WITH FLOATING BIASED MEMORY CELL CHANNEL**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 112**

lmn

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date :09/13/07

Patent No. : 7009888 B2
Ser. No. : 10/888,693
Inventor(s) : MASUOKA, FUJIO
Issued : 03/07/06
Title : **LOW VOLTAGE, ISLAND-LAYER-BASED NONVOLATILE SEMICONDUCTOR STORAGE DEVICE WITH FLOATING BIASED MEMORY CELL CHANNEL**

Docket No. : 259052005200

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

LMN

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MORRISON & FOERSTER LLP
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FEB 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,009,888 :
Issued: March 7, 2006 :
Application No. 10/888,693 : ON PETITION
Filed: July 8, 2004 :
Attorney Docket Number: 259052005200 :

This is a decision on the petition, filed October 4, 2007, 37 CFR 3.81(b) [1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of a second assignee, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second 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 a certification of correction was filed June 19, 2006 and was dismissed in a decision mailed July 5, 2006 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees. A subsequent request for a certification of

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[1] *See* Official Gazette of June 22, 2004

correction was filed December 14, 2006 was also dismissed in a decision mailed September 13, 2007 since the request was also not accompanied by a petition under 37 CFR 3.81 and the proper fees.

Office assignment records reflect that FUJIO MASUOKA is also an 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 charged to deposit account no. 03-1952 as per the authorization in the petition.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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MAY 06 2008

OFFICE OF PETITIONS

In re Application of :
Sumanta Chakraborty, et al. :
Application No. 10/888,728 : ON PETITION
Filed: July 9, 2004 :
Attorney Docket No. 2004P02011US01 :

This is a decision in response to the petition, filed January 9, 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 June 14, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 15, 2007. On January 9, 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) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2618 for consideration of the amendment filed January 9, 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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Commissioner for Patents
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P.O. Box 1450
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Law Offices of Daniel L. Dawes
5200 Warner Blvd., Ste. 106
Huntington Beach, CA 92649

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Steve Pak	:	
Application No. 10/888,743	:	DECISION ON PETITION
Filed: July 9, 2004	:	TO WITHDRAW
Attorney Docket No. PAK1.PAU.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 August 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Joseph C. Andras, on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed to that of the inventor at the address of record. The address changed is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Steve Pak
28025 Ridgebrook Court
Rancho Palos Verdes, CA 90275

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/888,743	07/09/2004	Steve Pak	PAK1.PAU.01

CONFIRMATION NO. 5327

POWER OF ATTORNEY NOTICE

79782
Law Offices of Daniel L. Dawes
5200 Warner Blvd, Ste. 106
Huntington Beach, CA 92649

OC000000032335183

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2008.

- 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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GOLDSTEIN LAW OFFICES, P.C.
2071 CLOVE ROAD - 204
STATEN ISLAND, NY 10304

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of Saintlot :
Application No. 10/888,773 : Decision on Petition
Filing Date: July 9, 2004 :
Attorney Docket No. 14700 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2005, which set a shortened statutory period for reply of three (3) months. Although a reply was filed January 17, 2006, the reply was not accompanied by payment for an extension of time. As a result, the above-identified application became abandoned on December 31, 2005. A Notice of Abandonment was mailed on May 9, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3765 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BEYER WEAVER & THOMAS
P.O. BOX 70250
OAKLAND CA 94612-0250

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Vicki Noel et al	:	
Application No. 10/888,793	:	ON PETITION
Filed: July 9, 2004	:	
Attorney Docket No. SMC1P030/6355-98	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 2004.

The petition is dismissed.

Rule 47 applicant is given ONE MONTH from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), petitioner has failed to establish that inventor Benjamin Lovece has refused to join in the filing of the above-identified application. The declaration of Joanne Stacey indicates that on August 31, 2004, an email message was sent to Mr. Lovece to execute the declaration and power of attorney form for the above-identified application. Further, on September 20, 2004, Ms. Stacey indicates that a letter was sent to Mr. Lovece by registered mail enclosing the declaration and power of attorney form for signing and that the letter was returned the following week marked undeliverable. It is assumed that the letter was sent to the last known address.

Rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after have been presented with the application papers (specification, claims, and drawings). There is no indication whether Mr. Lovece was presented with a copy of the

complete application papers. In this regard, petitioner states that an email message was sent to Mr. Lovece asking him to execute the declaration and power of attorney form. However, it is unclear from the record whether (1) the email was received by Mr. Lovece; (2) whether the email address was a viable one; and (3) whether a copy of the application papers (specification, claims, etc.) were sent in the email message to Mr. Lovece. If Mr. Lovece was not presented with a copy of the application papers, then he could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Did Mr. Lovece receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Lovece, then petitioner will have to mail a copy of the complete application papers to Mr. Lovece at his last known address, return receipts requested. A cover letter of instructions should accompany the mailing of the application papers 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 certified mail return receipt, cover letter of instructions, telegrams, etc., to support a showing that the nonsigning inventor has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

If petitioner was unable to reach Mr. Lovece by a viable email address, petitioner must demonstrate the diligent efforts made to locate Mr. Lovece.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further, applicant's attention is directed to MPEP 409.03(d) which states "[t]he fact that a nonsigning inventor is unavailable to sign the declaration is <u>not</u> an acceptable reason for filing under 37 CFR 1.47." Therefore, the petition is thus dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy for

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

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AUG 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Daryl C. Drummond et al	:	
Application No. 10/888,794	:	DECISION ON PETITION
Filed: July 9, 2004	:	TO WITHDRAW
Attorney Docket No. 056367-1701	:	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 Antoinette F. Konski on behalf of the practitioners of record associated with Customer Number 38706.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Daryl C. Drummond 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: Daryl C. Drummond
247 Edgewood Drive
Pacifica, CA 94044

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

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OFFICE OF PETITIONS

In re Application of
Hong Li et al.
Application No. 10/888,804
Filed: July 9, 2004
Attorney Docket Number: 67174382.001101

DECISION GRANTING PETITION

This is a decision on the petition filed April 14, 2008 under 37 CFR 1.181, 1,182 and 1.183, requesting a correction to the inventorship due to an error on the part of the Office. The petition is treated under 37 CFR 1.181 as a petition to correct an office mistake.

The petition is **GRANTED**.

A review of the file reveals that while no oath or declaration was filed and this application was expressly abandoned prior to filing such, an incorrect oath or declaration was inadvertently placed in the files for this application. The oath or declaration placed in this application was for an unrelated application and subsequently moved on July 20, 2006 when the error was noticed.

In view thereof, the inventors for this application should have properly been identified as Hong Li and Ravikumar Kudaravalli. In accordance with the request, although the inventorship was never set since neither an Oath or Declaration was ever filed, the application files have been corrected to properly identify the inventors.

The petition fee in the amount of $400 will be credited back to deposit account no. 13-0480 since the error committed was not by fault of the petitioners.

Since this application is not being processed, after the correction to the file, this application will receive no further consideration.

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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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of Lau et al. Application No. 10/888,806 Filed: July 8, 2004 Attorney Docket No. PARCR 67993 For: Self-Anchoring Cardiac Harness	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 22, 2004.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Due to fee increases effective October 1, 2004, the check submitted was insufficient to cover the charges cited by petitioner and $15 was charged to petitioner's deposit account on November 23, 2004.

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47(a) was raised from $130 to $200.[1] Previously, only $130 was applied towards the petition fee. Therefore, $70 will be charged to petitioner's deposit account.

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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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Bart Nuttin	: DECISION ON REQUEST FOR
Patent Number	: 7616998	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,807	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1084** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUN 23 2008

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

In re Application of	:	
ROME, Guy et al.	:	
Application No. 10/888,817	:	DECISION ON PETITION
Filed: July 08, 2004	:	TO WITHDRAW
Attorney Docket No. **480062004400**	:	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 05, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 19, 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: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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SEP 30 2004

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SEP 30 2004

OFFICE OF THE DIRECTOR
TC 3600

CATHY D. SANTA CRUZ
7630 THROLL DRIVE
RENO, NV 89506

In re application of Cathy D.Santa Cruz, et al Application No. 10/888,835 Filed: July 8,2004 For: PORTABLE SELF-CONTAINED SERVICE CART ARRANGEMENT	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 8, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED.**

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted was a statement signed by Phillip B. Waldren 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: 9/28/04

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NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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DEC 11 2009

OFFICE OF PETITIONS

In re Patent No. 6,913,674	:	
Issue Date: July 5, 2005	:	
Application No. 10/888,839	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. 52996-DIV	:	

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.

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.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA North America, LLC
225 Reinekers Lane, Suite 400
Alexandria, VA 22314

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)
6,976,688	2005-12-20	10/888,846	2004-07-09	061300-0632

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	/ Sheena Conners /	Date (YYYY-MM-DD)	2010-03-10
Name	Sheena Conners	Registration Number	63930

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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Alexandria, VA 22313-1450
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In re Patent No. 6976688
Issue Date: December 20,2005
Application No. 10888846
Filed: July 9,2004
Attorney Docket No. 061300-0632

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 10,2010 .
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.

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Jonathan Michael Power	: DECISION ON REQUEST FOR
Patent Number	: 7616583	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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55 MADISON AVENUE
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MORRISTOWN, NJ 07960-7397

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of
Venkatasubramanian Radhakrishna Tarur et al.
Application No. 10/888,901
Filed: July 9, 2004
Attorney Docket No. USV

ON PETITION

This is a decision on the communication filed May 17, 2006 which is treated as a petition to withdraw the holding of abandonment 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(b) is **DISMISSED.**

This application became abandoned October 25, 2004 for failure to timely reply to the Notice to File Missing Parts mailed August 24, 2004, which set a two month period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the Notice to File Missing Parts was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner indicates that the docket was reviewed, that the Office Action was not located and there was no indication that the Notice had been received.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MORRISTOWN, NJ 07960-7397

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APR 10 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Venkatasubramanian Radhakrishna Tarur et al. :
Application No. 10/888,901 :
Filed: July 9, 2004 :
Attorney Docket No. USV :

This is a decision on the request for reconsideration filed March 5, 2007, to withdraw the holding of abandonment 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(b) is **GRANTED**.

This application became abandoned October 25, 2004 for failure to timely reply to the Notice to File Missing Parts mailed August 24, 2004, which set a two month period for reply. A petition filed May 17, 2006, prior to the mailing of the Notice of Abandonment, was dismissed in a decision mailed January 30, 2007 because while statements were presented to substantiate the claim of non-receipt, no other corroborating evidence to prove non-receipt was presented.

Comes now petitioner with copies of the docket calendar and the file jacket wherein receipt of the Notice to File Missing Parts mailed August 24, 2004 would have been filed, had it been received. To show that the Notice mailed November August 24, 2004 was not received, petitioner also explains that after searching the docket and file it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibits show no entry indicating receipt of the Notice to File Missing Parts mailed August 24, 2004, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Notice to File Missing Parts.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing Parts was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

A response to the Notice to File Missing Parts mailed August 24, 2004 was filed May 17, 2006. This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

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55 MADISON AVENUE
4TH FLOOR
MORRISTOWN, NJ 07960-7397

Mail Date: 04/20/2010

Applicant	: Venkatasubramanian Radhakrishna Tarur	: DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH
Patent Number	: 7378439	
Issue Date	: 05/27/2008	
Appliction No	: 10/888,901	
Filed	: 07/09/2004	

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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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Peter J. Basser	: DECISION ON REQUEST FOR
Patent Number	: 7643863	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/888,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
10/888,951	07/09/2004	2671	920	019680-001010US	5	17	1

CONFIRMATION NO. 2297

CORRECTED FILING RECEIPT

OC000000015224107

45890
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 02/18/2005

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)

Oren Rubinstein, Sunnyvale, CA;
Ming Benjamin Zhu, San Jose, CA;

Assignment For Published Patent Application

Nvidia Investment Company, Santa Clara, CA

Power of Attorney:

Babak Sani–37495

Domestic Priority data as claimed by applicant

This application is a CON of 09/709,964 11/10/2000 PAT 6,856,320
which is a CIP of 08/978,491 11/25/1997 PAT 6,697,063

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 US10/888,951

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Demand-based memory system for graphics applications

Preliminary Class

345

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
Darrin B. FARROW :
Application No. 10/888,965 :
Filed: 7/12/2004 :
Attorney Docket No. 110521.0002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 3/21/2008, 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 9/7/2007, 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 above-identified application became abandoned 12/8/2007.

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 an amendment and arguments/remarks; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of 9/7/2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on 3/21/2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-0959 (110521.0002).

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3696 for appropriate action on the concurrently filed amendment and arguments/remarks.

David A. Bucci
Petitions Examiner
Office of Petitions

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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: OBAYASHI, et al.
Application No. 10/888,984
Filed: July 13, 2004
For: BACKUP ACQUISITION METHOD AND DISK ARRAY 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 15 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The 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 15 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references.

On page 3 of the petition, a first feature of independent claims 1, 2, and 17, a second feature of independent claims 1 and 17, and a third feature of independent claims 2 and 17 are identified. Page 3 of the petition states that "the cited references, at a minimum, fail to teach or suggest *in combination . . . with the other limitations recited in the claims*," (emphasis added) the first, second, and third features. On pages 4-11 of the petition, the discussion sets forth a first statement that each of the references deemed most closely related fails to teach or suggest the first feature of independent claims 1, 2, and 17, the second feature of independent claims 1 and 17, and the third feature of independent claims 2 and 17 "in combination with the other limitations recited in each of the independent claims." Immediately after this statement for each of the references, the discussion sets forth a second statement that in "terms of explicit limitations, the reference does not teach or suggest [essentially all of the limitations of claim 1, claim 2, or claim 17]." The petition is confusing as to whether the first statement is intended to distinguish the references or whether the second statement is intended to distinguish the references. Clarification is required.

Additionally, the discussion on page 3 of the first, second and third features, the first statement, and the second statement all essentially state that the entirety of each of claims 1, 2, and 17 is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description.

Further, on page 3, the discussion states that "although the distinguishing feature(s) may represent a substantial portion of the claimed invention, the claimed invention including said feature(s) and their inter-operation provides a novel storage system and system and method related to or implemented in or by said storage system." However, it is not clear what is intended by this statement. The statement fails to explain why "the distinguishing feature(s) may represent a substantial portion of the claimed invention".

Finally, it is suggested that if the identical statement is being made to distinguish each reference from the claims, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Technology Center 2100

In re Application of: OBAYASHI, et al.
Application No. 10/888,984
Filed: July 13, 2004
For: BACKUP ACQUISITION METHOD AND DISK ARRAY 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 21 November 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 15 August 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 21 November 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Miura	:	
Application No.: 10/889,042	:	DECISION
Filing Date: 13 July, 2004	:	
Attorney Docket No. 120388	:	

This is a decision on the petition filed on 3 October, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners are directed to the Commentary at MPEP §711.03(c) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 17 March, 2008, with reply due absent extension of time on or before 17 June, 2008.

The application went abandoned after midnight 17 June, 2008.

The Office mailed a Notice of Abandonment on 24 September, 2008.

On 3 October, 2008, Petitioner filed the instant petition seeking withdrawal of the holding of abandonment under the provisions of 37 C.F.R. §1.181, and averred timely reply, and supported that averment with a copy of the date-stamped (17 September, 2008) receipt card acknowledging receipt by the Office of the extension of time and fee, and the amendment, with copies of same.

Moreover, Office records now reflect the receipt of the said reply and extension of time with fees on 17 September, 2008.

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). And 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]

More particularly, the Office has set forth in the Commentary at MPEP §711.03(c) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

---

[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).

[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.))

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 24 September, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU (TC/AU) 1793 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : January 15,2008

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/889,045 Patent No.: 7018288 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

AU 3749

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ANTHONY ASQUITH
#28 - 461 COLUMBIA STREET WEST
WATERLOO, ONTARIO, N2T 2P5
CANADA

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APR 2 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Chen, et al.	:	
Application No. 10/889,075	:	
Filed: July 13, 2004	:	
Attorney Docket No. 282-679US	:	

This is a decision on the petition under 37 CFR 1.181, filed January 11, 2006, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 5, 2005. Accordingly, this application became abandoned on October 6, 2005. A Notice of Abandonment was mailed on January 11, 2006.

Petitioner contends the Office communication was never received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993) and MPEP 711.03(c).

The required copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and referenced in practitioner's statement has not been submitted. As such, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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 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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#28 - 461 COLUMBIA STREET WEST
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OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/889,075 :
Filed: July 13, 2004 :
Attorney Docket No. 282-679US :

ON PETITION

This is a decision on the request for reconsideration of petition under 37 CFR 1.181, filed April 25, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 5, 2005. Accordingly, this application became abandoned on October 6, 2005. A Notice of Abandonment was mailed on January 11, 2006.

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The file is being forwarded to Technology Center 2800 for re-mailing of the July 5, 2005 Office action with a new period for response.

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

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OFFICE OF PETITIONS

ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO ON N2T 2P5 CA CANADA

In re Application of Chao Chen et al. Application No. 10/889,075 Filed: July 13, 2004 Attorney Docket Number: 282-679US Title: STRUCTURE FOR MOUNTING A COMPONENT TO A CIRCUIT-BOARD	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed January 22, 2007, to have the Office consider a prior-filed paper as timely filed.

Background

A non-final Office action was mailed on September 29, 2006. A response was timely received on December 15, 2006, however the response was not properly executed. Consequently, a Notice of Non-Compliant Amendment (notice) was mailed on January 3, 2007, which set a one-month period for response.

On January 22, 2007, the present petition was filed, along with a properly executed amendment. Consequently, the proper amendment was timely filed.

Petitioner seeks the withdrawal of this notice, and has asserted that the submission of December 15, 2006 was properly executed.

Petitioner's submission has been considered, and it has been deemed to be unpersuasive. Consequently, it has not been established that the notice was improper and should be withdrawn. A discussion follows.

The Relevant Regulation

37 C.F.R. §1.4(d)(2) sets forth, *in toto*:

> S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by either a handwritten signature of § 1.4(d)(1) or an Office Electronic Filing System (EFS) character coded signature of § 1.4(d)(3). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office Electronic Filing System as an EFS Tag(ged) Image File Format (TIFF) attachment, for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) are as follows.
>
> (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and
>
> (ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.
>
> (iii) The signer's name must be:
>
> (A) <u>Presented in printed or typed form</u> (emphasis added) preferably immediately below or adjacent the S-signature, and
>
> (B) Reasonably specific enough so that the identity of the signer can be readily recognized.

Analysis

The submission of December 15, 2006 was not accepted since it was not properly executed. Patent practitioners may place an S-signature on documents that are submitted to the Office. Rule §1.4(d)(2) defines an S-signature as "a signature inserted between forward slash marks, but not a handwritten signature as defined by Rule §1.4(d)." The rule indicates that patent practitioners must place both an S-signature and the signer's name on the document.

The proper submission of an S-signature appears as such:

/John Doe/

John Doe

Reg. No. 12,345

The submission of December 15, 2006 contained the following signature block:

/Anthony Asquith/

Regn 32373

for the Applicant

Clearly, this does not comport with the requirements of the rule, as the signer's name was not included. Petitioner has set forth that Rule §1.4(d)(2)(iii) requires that the signer's name be presented in printed or typed form, and has set forth that he has met this requirement, as his name appears between the forward slash marks. In essence, Petitioner has asserted that the S-signature and the signer's name can be one and the same. As for the Rule's requirement that the signer's name be "presented in printed or typed form preferably immediately below or adjacent the S-signature," Petitioner has argued that the inclusion of the word "preferably" suggests that the location of the signer's name is not mandatory.

Petitioner's arguments are not in accordance with Office practice. The location of the signer's name is not mandatory, but the inclusion of the signer's name is.

Petitioner may wish to review the final notice of proposed rule making, which may be found at: http://www.uspto.gov/web/offices/com/sol/og/2004/week41/patchng.htm and states in pertinent part:

> Section 1.4(d)(2)(iii)(A) requires that in addition to the S-signature (emphasis added), a printed or typed name of a signer must be provided preferably immediately below or adjacent to the person's S-signature.

Rule §1.4(d)(2) defines an S-signature as "a signature inserted between forward slash marks." Rule §1.4(d)(2)(iii) discusses the signor's name. As such, the "S-signature" and the "signor's name" are two separate and distinct entities, and one cannot serve as the other.

Rule §1.4d(2)(iii)(A) sets forth that the signer's name must be "presented in printed or typed form," and the inclusion of the same is not discretionary. Petitioner has confused Office discretion as to location of the printed/typed form of his name

relative to his S-signature with the non-discretionary requirement that the signor's name be presented in printed/typed form in some location relative to and along with the s-signature. The rule articulates and presumes the existence of the s-signature and hence this rule's requirements are independent and additive of the s-signature.

Conclusion

This petition must be **DISMISSED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. None

ANTHONY ASQUITH
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JUN 21 2007

OFFICE OF PETITIONS

In re Application of Chao Chen et al. Application No. 10/889,075 Filed: July 13, 2004 Attorney Docket Number: 282-679US Title: STRUCTURE FOR MOUNTING A COMPONENT TO A CIRCUIT-BOARD	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition under 37 CFR §1.181(a), filed June 11, 2007, to withdraw the holding of abandonment.

Background and Procedural History

A non-final Office action was mailed on September 29, 2006. A response was timely received on December 15, 2006, however the response was not properly executed. Consequently, a Notice of Non-Compliant Amendment (notice) was mailed on January 3, 2007, which set a one-month period for response.

On January 22, 2007, an original petition was filed, along with a properly executed amendment. Consequently, the proper amendment was timely filed. Petitioner sought the withdrawal of this notice via the filing of the original petition, and asserted that the submission of December 15, 2006 had been properly executed. The original petition was dismissed via the mailing of a decision on May 9, 2007.

The Relevant Regulation

37 C.F.R. § 1.4(d)(2) sets forth, *in toto*:

> (2) S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by either a handwritten signature of § 1.4(d)(1) or an Office Electronic Filing System (EFS) character coded signature of § 1.4(d)(3). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office Electronic Filing System as an EFS Tag(ged) Image File Format (TIFF) attachment, for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) are as follows.
>
> (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and
>
> (ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.
>
> (iii) The signer's name must be:
>
> (A) Presented in printed or typed form (emphasis added) preferably immediately below or adjacent the S-signature, and
>
> (B) Reasonably specific enough so that the identity of the signer can be readily recognized.

Analysis

The submission of December 15, 2006 was not accepted since it had not been properly executed. Patent practitioners may place an S-signature on documents that are submitted to the Office. Rule §1.4(d)(2) defines an S-signature as "a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1)." The rule indicates that patent practitioners must place both an S-signature and the signer's name on the document.

The proper submission of an S-signature appears as such:

/John Doe/
John Doe
Reg. No. 12,345

The submission of December 15, 2006 contained the following signature block:

/Anthony Asquith/
Regn 32373
for the Applicant

The decision on the original petition set forth that it was clear this manner of executing a document failed to comport with the requirements of the rule, in that the signor's name had not been included. Petitioner had asserted that the S-signature and the signor's name can be one and the same, however it was made clear that Petitioner's arguments are not in accordance with Office practice.

The final notice of the proposed rule, 1287 OG 67, was referenced in the decision, and may be viewed here - http://www.uspto.gov/web/offices/com/sol/og/2004/week41/patchng.htm.

The pertinent part of this OG notice is:

> Section 1.4(d)(2)(iii)(A) requires that in addition to (emphasis added) the S-signature, a printed or typed name of a signer must be provided preferably immediately below or adjacent to the person's S-signature.

It follows that Rule § 1.4(d)(2)(iii)(A) sets forth that the signer's name must be "presented in printed or typed form," and the inclusion of the same is not discretionary. The decision set forth:

> Petitioner has confused Office discretion as to the location of the printed/typed form of his name relative to his S-signature with the non-discretionary requirement that the signor's name be presented in printed/typed form in some location relative to and along with (emphasis included) the s-signature. The rule articulates and presumes the existence of the s-signature and hence the rule's requirements are independent and additive of the s-signature.

With this renewed petition, Petitioner has dismissed this notice in the Official Gazette as non-binding. Petitioner has set forth

> Again, it must be pointed out that the correspondence must face the Rule as it is actually expressed. A re-expression of the Rule, appearing in a commentary on the PTO's own website, has no legal effect (emphasis added). So why mention it? Only the words that actually appear in the Rule have legal effect.

Petitioner is incorrect. Petitioner has dismissed this Official Gazette notice as mere "commentary on the PTO's own website." However, Petitioner will note that this notice, which was also published in the Federal Register (69 Fed. Reg. 56481) served as a notice that explicated the Rule. It served as a notice to the public that this is the final expression of the Rule, and as a final rule, has the force of law.

Conclusion

This renewed petition must be **DISMISSED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the original petition can be processed.

NOTICE:

Should Petitioner choose to request a reconsideration of this decision, any such request must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The request for reconsideration should include a cover letter entitled "Second Renewed Petition under 37 C.F.R. §181(A)," and should only address the deficiencies noted in this decision.

Thereafter, there will be no further reconsideration of this matter[1, 2].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

---

1 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

2 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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ESCO CORPORATION
2141 NW 25TH AVENUE
P.O. BOX 10123
PORTLAND, OR 97210

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Application of
Charles G. Ollinger, IV
Application No. 10/889,094
Filed: July 13, 2004
Attorney Docket No. 51291.000121

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2010, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

In view of the official closing of the Federal Government Offices in the Washington, DC metropolitan area, including the US Patent and Trademark Office (USPTO), on Monday and Tuesday, February 8th and 9th, 2010 to be a "Federal holiday within the District of Columbia" under 35 USC 21(b) and 37 CFR 1.16, 1.17, 1.19, 2.2(d), 2.195 and 2.196. Any action or fee due on Monday, February 8, 2010 or Tuesday February 9, 2010 (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action is taken, or the fee paid on the next succeeding business day on which the USPTO is open.

37 CFR 1.6(a)(4) and 37 CFR 2.195(a)(2) provide that patent and trademark-related correspondence transmitted electronically to the USPTO will be considered filed in the USPTO on the date received the electric transmission. Thus, any patent and/or trademark-related correspondence transmitted electronically to the USPTO on Monday, February 8, 2010, or Tuesday, February 9, 2010, will be considered filed in the USPTO on the date the USPTO received the complete electronic transmission. Correspondence successfully received by the USPTO through the patent Electronic Filing System (EFS-Web) will receive the date as indicated on the Acknowledgement Receipt.

In view of the above, the reply received in the Office on February 9, 2010 is considered timely filed and the petition filed under 37 CFR 1.137(b) is deemed unnecessary and dismissed as moot.

Since the petition under 37 CFR 1.137(b) is deemed unnecessary the $1620 petition fee submitted with the petition on February 9, 2010 will be credited back to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 05/21/2010

Applicant	: Kil-soo Jung	: DECISION ON REQUEST FOR
Patent Number	: 7653287	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/889,113	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1596** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Stanley P. Fisher
Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042-4503

MAILED

OCT 20 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Masayuki Takase, et al.
Application No. 10/889,139
Filed: July 13, 2004
For: STORAGE SWITCH WITH BANDWIDTH CONTROL FUNCTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 20, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/889,159	07/12/2004	Paul M. Gelencser	SC13424TC	6226

23125 7590 06/02/2006

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN, TX 78729

EXAMINER
WEINBERG, MICHAEL J

ART UNIT	PAPER NUMBER
2827	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

In re Application of: Gelencser	:	
	:	DECISION *SUA SPONTE*
Serial No.: 10/889159	:	WITHDRAWING HOLDING
Filed: 7/12/2004	:	OF ABANDONMENT
For: MEMORY ROW/COLUMN REPLACEMENT IN AN INTEGRATED CIRCUIT	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The notice of abandonment mailed on April 17, 2006 was sent in error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status.

The Office action mailed on March 7, 2006 will be re-mailed. The shortened statutory period for reply will be reset to run from the date the action is remailed.

Any inquiry regarding this decision should be directed to, Pre Grant Publication at (703) 605-4283.

Kaletus Ling

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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED
MAR 27 2006
OFFICE OF PETITIONS

Applicant: Hemley et al.
Appl. No.: 10/889,170
Filing Date: July 13, 2004
Title: ULTRAHARD DIAMONDS AND METHOD OF MAKING THEREOF
Attorney Docket No.: 056100-5038-US02
Pub. No.: US 2005/0034650 A1
Pub. Date: February 17, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, filed on March 1, 2006, for the above-identified application. It is not clear if the republication request is under 37 CFR 1.221(a) or 37 CFR 1.221(b).

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of another application.

The request for corrected publication under 37 CFR 1.221(a) received on March 1, 2006, did not include a copy of the application compliance with the Office's electronic filing system requirements. A request for republication under 37 CFR 1.221(a), must be submitted via the EFS system. The publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on March 1, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

It would greatly benefit the Office if applicant did not provide copies of the application papers, which were previously submitted and a copy of the published application, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The documents scanned on November 18, 2004, which were improperly indexed as specification, claims and drawings and published have been removed from the image file wrapper.

The publication fee $300.00 previously paid is being refunded to Petitioners Deposit Account (50-0310). The processing fee ($130.00) will be retained.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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DRW 01-02

Paper No. 8

HUNTON AND WILLIAMS
1900 K STREET N W
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Allen, Buroker, Flood, Gentz, :
Lidman, and Teichman : DECISION ACCORDING STATUS
Application No. 09/597,298 : UNDER 37 CFR 1.47(a)
Filed: 20 June, 2000 :
Attorney Docket No. 47004.000053 :

This is in response to the renewed petition under 37 CFR 1.47(a)[1] filed on 9 January, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the affidavit of Linda H. Rogers establishes that a copy of the application was sent to the non-signing inventors, Brian J. Allen, Bruce A. Buroker, and Gina M. Lidman, but that each inventor failed to execute and return the declaration.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

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.

As joint inventor Flood signed the declaration in the space provided for the signature of joint inventor Gentz, a new oath or declaration in compliance with 1.63 and 1.67 must be filed when required by the examiner.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 07/23/2010

Applicant	: Brian J. Allen	: DECISION ON REQUEST FOR
Patent Number	: 7676751	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/889,176	: OF WYETH
Filed	: 07/13/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-145

JUN 2 2005

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

In re application of
Ron Smith
Application No. 10/889,192 :
Filed: July 17, 2004 :
For: SYSTEM AND METHOD FOR TERMINATION OF AN UNDERSEA UMBILICAL :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 25, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys listed in the request do not correspond with those named in the Power of Attorney in the declaration (Customer Number 27683), thereby creating confusion as to who is withdrawing. If less than all the attorneys wish to withdraw and a portion of the originally listed attorneys wish to retain power, any renewed request must so state, otherwise the person signing must be signing on behalf of all the attorneys of record.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/23/05

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HUSCH BLACKWELL SANDERS LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS MO 63101

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Ron Smith	:	
Application No. 10/889,192	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. 60728.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 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 March 17, 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 April 18, 2006. The Notice of Abandonment was mailed November 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; 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.

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 3671 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Ron Smith**
DeepDown Inc.
15473 East Freeway
Channelview, TX 77530

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Arka Mukherjee	: DECISION ON REQUEST FOR
Patent Number	: 7634482	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,229	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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SEP 27 2006
OFFICE OF PETITIONS

In re Application of
Osamu Okumura
Application No. 10/889,250
Filed: July 13, 2004
Attorney Docket No.: 120169

ON PETITION

This is a decision on the petition, filed September 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2871 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 04/30/2010

Applicant	: Melanie A. Fike	: DECISION ON REQUEST FOR
Patent Number	: 7620059	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/889,256	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1484** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Myertons, Hood, Kivlin, Kowert
& Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Karempudi V. Ramarao et al.	:	
Application No. 10/889,273	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. INTEL 1140-2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 3, 2006.

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 Ari G. Akmal and all attorneys/agents of record has been revoked by the assignee of the patent application on June 21, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Intel/BSTZ
Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald L. Yates	:	
Application No. 10/889,280	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No.: MTI-31046-B	:	

This is a decision on the petition, filed November 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 10, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1765 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 17, 2008**

TO SPE OF : ART UNIT **1621**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/889311** Patent No.: **7112697 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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Yvonne Eyler — **SPE**

1621 — **Art Unit**

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/22/2010

Applicant	: Jean-Louis Ruelle	: DECISION ON REQUEST FOR
Patent Number	: 7662399	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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. Byrne
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON,P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Stefan Oehlinger	: DECISION ON REQUEST FOR
Patent Number	: 7626022	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Dorsey & Whitney LLP
Intellectual Property Department
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402-1498

7/15/08

In re Application of:
Horisberger, et al.
Serial No.: 10/889,360
Filed: July 12, 2004
Title: Catheter Head with Catheter Drain in Discrete Rotational Positions

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

The petition to make the above-identified application special under the accelerated examination procedures set forth in MPEP § 708.02(VIII) and in accordance with 37 CFR § 1.102(d) was filed on Sept. 6, 2005 along with the petition fee of $130.00 as well as an Information Disclosure Statement.

The request and petition to make the above-identified application special are **GRANTED**.

For accelerated examination under MPEP § 708.02 (VIII) in accordance with 37 CFR § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; 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 request and petition to make the application special comply with the requirements of MPEP § 708.02 (VIII) in accordance with 37 CFR § 1.102(d). Accordingly, above-identified application has been granted special status pursuant to MPEP § 708.02.

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 granted. The present examination of the application will therefore continue, awaiting a reply by the applicant to the Final Rejection mailed on March 18, 2008. Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

The petition is **GRANTED**.

Henry C. Yuen
Special Programs Examiner
Technology Center 3700
Tel: 571-272-4856

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P.O. Box 1450
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PFIZER INC
STEVE T. ZELSON
150 EAST 42ND STREET
5TH FLOOR – STOP 49
NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	
Application No. 10/889,395	:	DECISION ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. PC25492A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 30, 2006, as required by the Notice of Allowance and Fee(s) Due mailed August 31, 2006. Accordingly, the date of abandonment of this application is December 1, 2006. A Notice of Abandonment was mailed December 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and publication fee of $300.00; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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FEB 05 2008

TECHNOLOGY CENTER 3600

SPECKMAN LAW GROUP, PLLC
1201 Third Avenue
Suite 330
Seattle, WA 98101

In re Application of:	:	
Bachelor, Scott Thomas	:	NOTICE OF WITHDRAWAL
Application No. 10/889,406	:	FROM ISSUE
Filed: July 12, 2004	:	UNDER 37 CFR § 1.313(b)
Attorney Docket No. 13325.1001U	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Thomas Tarcza at (571)-272-6979.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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TODD MATTINGLY
HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
SMITH	:	
Application No. 10/889,413	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. 30383.4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 25, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved at this time because power of attorney was accepted based on practitioners associated with Customer Number 27683 and not the ten practitioners named in the Supplemental Sheet to Power of Attorney filed on December 1, 2004. See MPEP 403. A grantable petition would request withdrawal of all attorneys associated with Customer Number 27683. For example, see Form PTO/SB/83.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: DEEP DOWN, INC
15473 EAST FREEWAY
CHANNELVIEW, TX 77530

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TODD MATTINGLY
HAYNES AND BOONE LP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of	:	
SMITH	:	
Application No. 10/889,413	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. 30383.4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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).

Todd Mattingly signed the request on behalf of all attorneys of record who are associated with Customer No. 27683. All practitioners associated with Customer Number 27683 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

A petition to revive the above-identified application was received on June 18, 2007 and will be considered in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (517) 272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: RON SMITH
DEEP SOUTH, INC.
15473 EAST FREEWAY
CHANNELVIEW, TX 77530

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/889,413	07/12/2004	Ron Smith	30383.4

CONFIRMATION NO. 5714

POWER OF ATTORNEY NOTICE

OC000000026300793

27683
HAYNES AND BOONE, LLP
1615 L Street, N.W.
Suite 800
Washington, DC 20036-5610

Date Mailed: 10/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/10/2006.

- 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.

/dmpothier/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Ron Smith
Deep Down, Inc.
15473 East Freeway
Channelview TX 77530

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OFFICE OF PETITIONS

In re Application of :
Ron Smith :
Application No. 10/889,413 :
Filed: 07/12/2004 :
Title: METHOD AND APPARATUS FOR :
INSTALLING AN UNDERSEA UMBILICAL :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 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 March 21, 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 April 22, 2006. The Office mailed a Notice of Abandonment on January 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form an Election; (2) the petition fee; and (3) a proper statement of unintentional delay.

This matter is being forwarded to Technology Center AU 3671.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON TX 77002

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of
Steven Ziejewski et al.
Application No. 10/889,419
Filed: July 12, 2004
Attorney Docket Number:
11564.0079.NPUS01
Title: APPARATUS AND METHOD FOR PROTECTING AN UNINTERRUPTIBLE POWER SUPPLY AND CRITICAL LOADS CONNECTED THERETO '

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed August 24, 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 September 1, 2004, which set a shortened statutory period for reply of two (2) months and indicated that an executed oath or declaration, the fee associated with the late submission of the same, and replacement drawings would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 2, 2004. A Notice of Abandonment was mailed May 23, 2005.

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.

With the present petition, Petitioner has filed the petition fee, an executed declaration, the fee associated with the late submission of the same, and the proper statement of unintentional delay. Petitioner has met requirements (2) and (3) above. The fourth requirement does not apply.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., Petitioner must submit each of the requirements set forth in the notice). With the filing of the present petition, Petitioner has not submitted a set of replacement drawings.

As such, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(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.

The Change of Correspondence Address has been entered and made of record.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 See M.P.E.P. 711.03(c).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 571-273-8300 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed 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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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON TX 77002

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of
Steven Ziejewski et al.
Application No. 10/889,419
Filed: July 12, 2004
Attorney Docket Number:
11564.0079.NPUS01
Title: APPARATUS AND METHOD FOR PROTECTING AN UNINTERRUPTIBLE POWER SUPPLY AND CRITICAL LOADS CONNECTED THERETO '

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed October 19, 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 September 1, 2004, which set a shortened statutory period for reply of two (2) months and indicated that an executed oath or declaration, the fee associated with the late submission of the same, and replacement drawings would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 2, 2004. A Notice of Abandonment was mailed May 23, 2005.

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 original petition was submitted on August 24, 2005, and was dismissed via the mailing of a decision on September 13, 2005 for failing to include replacement drawings, as required by the notice.

With this renewed petition, Petitioner has submitted the required replacement drawings.

As such, the petition is **GRANTED**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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JACK SHORE
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO, IL 60606-1615

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of :
Greene, et al. :
Filed: July 12, 2004 : ON PETITION
Application No. 10/889,421 :
Dkt. No.: 4004052.0007 :

The above-identified application has been referred to the Office of Petitions for consideration of the communication submitted November 2, 2004. This communication is being treated as a petition to accord the above-identified application a filing date of July 12, 2004.

The petition is **DISMISSED**.

The application was submitted July 12, 2004. On October 26, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioner indicates that the drawings were inadvertently omitted and has submitted one drawing sheet herewith, presumably for entry into the record.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one process claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of July 12, 2004. Thus, the instant petition to accord the application a filing date is unnecessary and the Notice of Incomplete Application mailed October 26, 2004 was mailed in error and is hereby withdrawn.

The application will be processed with only the papers present on July 12, 2004, without drawings as part of the original disclosure.

To avoid delay in processing, if petitioners desire to have drawings made part of this application, petitioners should consider submitting a second preliminary amendment to this effect prior to issuance of the first Office action on the merits.

No fee is due in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 12, 2004 using only the papers present on that day.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONATHAN P. OSHA
OSHA & MAY
1 HOUSTON CENTER, SUITE 2800
1221 MCKINNEY AVENUE
HOUSTON TX 77010

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APR 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Hiroaki Kukita	:	
Application No. 10/889,426	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. 07700.049001	:	

This is a decision on the petition, filed April 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 March 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2839 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : April 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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APR 28 2006
OFFICE OF PETITIONS

Applicant(s) :Hiroaki Kukita
Application No. :10/889,426
Filed :July 12, 2004

The above-identified application has been assigned Patent No. 7,044,784 and an issue date of May 16, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 16, 2006:

> "All reference to Patent No. 7,044,784 to Hiroaki Kukita of Japan for COAXIAL CONNECTOR appearing in the Official Gazette of May 16, 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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HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of
Sharon Mi Lyn TAN
Application No. 10/889,432
Filed: July 12, 2004
Attorney Docket No. **760-151-RCE**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2009.

The request is **DISMISS** as moot.

A review of the file record indicates that the power of attorney to **HOFFMAN & BARON, LLP** has been revoked by the assignee of the patent application on June 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **VIDAS, ARRETT & STEINKRAUS, P.A.**
6640 SHADY OAK ROAD, SUITE 400
EDEN PRAIRIE, MN 55344

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Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Robin Haley Gustin	: DECISION ON REQUEST FOR
Patent Number	: 7653600	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,453	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: 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.

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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Anil Raj Duggal et al :
Application No. 10/889,498 :
Filed: July 10, 2004 :
Attorney Docket No. RD-27258-12

This is a decision on the petition, filed February 6, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter 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.

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Mullis, et al. :
Filed: July 12, 2004 : ON PETITION
Application No. 10/889,518 :
Atty. Dkt. No.: NAGACO.11CPDCPC :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.181," filed November 1, 2004, in response to the Notice mailed September 17, 2004.

The application was filed July 12, 2004. The Notice mailed September 17, 2004 by the Office of Initial Patent Examination indicated, *inter alia*, that Figures 48B and 48C appeared to have been omitted from the specification.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

In response to the Notice, petitioner has submitted the omitted figures and indicates that the items were inadvertently omitted from the application as filed. Petitioners further argue that the instant continuation application incorporates by reference the entire disclosure, including the omitted figures, of U.S. App. No. 10/099,256.

Petitioners requests that Figures 48B and 48C be entered into the record and that the application be accorded a filing date of July 12, 2004.

An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Accordingly, in view of the incorporation by reference of the prior application, Figures 48B and 48C are not new matter if these figures were part of the disclosure of the prior application.

Petitioner is advised to promptly submit a preliminary amendment requesting entry of the omitted figures prior to the issuance of the first Office action on the merits.

The petition fee submitted herewith will not be refunded since the petition was necessary to correct petitioners' filing error.

In view of the above, the petition is **DISMISSED**.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 12, 2004 using the drawings that were present on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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SEP 02 2008

OSI Pharmaceuticals, Inc.
41 Pinelawn Road
Melville, NY 11747

In re Application of	:	
Vanessa Smith et al.	:	
Application No. 10/889,520	:	DECISION ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. OS-10007	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed June 10, 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 July 11, 2006. A Notice of Abandonment was mailed on June 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 and election, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly the amendment and election is accepted as being 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received October 31, 2007.

Carl Friedman
Petitions Examiner
Office of Petitions

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

Mail Date: 04/21/2010

Applicant	: Vanessa Smith	: DECISION ON REQUEST FOR
Patent Number	: 7662844	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN, TX 78701

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of	:	
RAMARAO, et al.	:	
Application No. 10/889,547	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. 042390.P24566	:	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 03, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MEYERTONS, HOOD, KIVLIN & GOETZEL, P.C. has been revoked by the assignee of the patent application on August 21, 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 PatriciaVolpe at (571) 272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: INTEL/BLAKELY
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/889,547	07/12/2004	Karempudi V. Ramarao	5859-00300

CONFIRMATION NO. 7320

OC000000020887038

35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN, TX 78701

Date Mailed: 10/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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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
10/889,556	07/12/2004	3612	770	Ruff Case 41	3	11	1

CONFIRMATION NO. 6981

CORRECTED FILING RECEIPT

OC000000014667272

23474
FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1699

Date Mailed: 12/03/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Klaus Haspel, Rottenburg, GERMANY;
Andreas Kobiela, Neckartenzlingen, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10333424.6 07/17/2003

If Required, Foreign Filing License Granted: 09/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/889,556

Projected Publication Date: 01/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Functional device for a motor vehicle loading area

Preliminary Class

296

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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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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JUN 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard D. HANSEN, et al	:	
Application No. 10/889,558	:	DECISION ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. P06849US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 6, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1618 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 04/21/2010

Applicant	: Daniel J. Horn	: DECISION ON REQUEST FOR
Patent Number	: 7635510	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE JC101
DEC 13 2004
PATENT & TRADEMARK OFFICE

IFW

Practitioner's Docket No. 03126

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kurt J. Thomae

Application No.: 10/889,594 Group No.: 1742

Filed: 07/12/2004. Examiner:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL BECAUSE OF ENVIRONMENTAL QUALITY (37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02 V)

NOTE: See M.P.E.P. § 708.02, 7th ed.

Applicant hereby petitions to make this application special because it is for an invention that materially enhances the quality of the environment of mankind, by contributing to the restoration or maintenance of the basic life-sustaining material elements (air, water, and/or soil).

The accompanying ☐ affidavit ☒ declaration by the

☐ applicant

☒ applicant's practitioner

explains how this invention contributes to the restoration or maintenance of one of these life-sustaining elements.

CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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 the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Christopher J. Scott
(type or print name of person mailing paper)

Date 12/9/04

Christopher J. Scott
Signature of person mailing paper

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
Technology Center 1700
JUN 13 2005

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Director's Office
Group 3700

Otto Regner
5491 Winchester
Troy, MI 48085

In re application of Otto Regner	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/889604 Filed: July 13, 2004	:	

For: **FUEL SAVER**

This is a decision on the petition filed on July 13, 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: 5/11/05

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MEYERTONS, HOOD, KIVLIN, KOWERT
& GOETZEL, P.C.
700 LAVACA, SUITE 800
AUSTIN, TX 78701

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
RAMARAO, et al.	:	
Application No. 10/889,614	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. INTEL 1140-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 03, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. has been revoked by the assignee of the patent application on August 21, 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 PatriciaVolpe at (571) 272-6825.

for David Bucci
Petitions Examiner
Office of Petitions

cc: INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
CHEN, Tzer-Fen D.	:	
Application No. 10/889,615	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. **17055-002001**	:	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 07, 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 Y. Rocky Tsao on behalf of all attorneys of record who are associated with customer No. 26161. 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.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **TZER-FEN D. CHEN**
6618 HEIDI COURT
MCLEAN, VIRGINIA 22101

cc: **ADVANCED INTERNATIONAL PHARMACEUTICAL NANOTECH, INC.**
10 KUAN FU ROAD, HSIN CHU INDUSTRIAL PARK
HUKOU, HSIN CHU DISTRICT, TAIWAN
R.O.C.

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/889,615	07/12/2004	Tzer-Fen D. Chen	17055-002001

CONFIRMATION NO. 4549

OC000000024026231

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/07/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

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Myertons, Hood, Kivlin, Kowert
& Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Karempudi V. Ramarao	:	
Application No. 10/889,626	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. INTEL 1150-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 3, 2006.

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 Ari G. Akmal and all attorneys/agents of record has been revoked by the assignee of the patent application on August 21, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Intel/BSTZ
Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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AUG 15 2008

In re Application of :
Saul Rosenberg, et al. :
Application No. 10/889,629 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. 6970.US.C1 :

This is a decision in response to the petition, filed April 10, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on May 18, 2008. In response, on April 10, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received April 10, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **June 06, 2008**

TO SPE OF : ART UNIT **2876**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/889639** Patent No.: **RE40220 E**

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: **The Request for Certificate of Correction filed 04/18/08 is to correct mistakes in the claims of the patent, which does not involve new matter or require reexamination.**

Steven Paik
/Steven S. Paik/ SPE **2887**

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 06, 2008

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/889639 Patent No.: RE40220 E

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images, using document code COCX

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Director's SPE 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: The Request for Certificate of Correction filed 04/18/08 is to correct mistakes in the claims of the patent, which does not involve new matter or require reexamination.

/Steven S. Paik/ SPE 2887

SPE **Art Unit**

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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

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SEP 05 2008

OFFICE OF PETITIONS

In re Application of	:
Peter M. Martin et al.	:
Application No. 10/889,640	: DECISION ON PETITION
Filed: July 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VIT 0008	:
RA/31089.135/12668-R	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed July 12, 2004.

The petition is **GRANTED**.

The instant non-provisional application is for re-issue of U.S. 6,623,861 patent to correct the priority claim. Correction of failure to adequately claim benefit under 35 U.S.C. 120 to an earlier filed copending U.S. patent application has been held a proper ground for reissue. Sampson v. Comm'r Pat., 195 USPQ 136, 137 (D.D.C. 1976). If the utility or plant application which became the patent to be reissued was filed on or after November 29, 2000, the reissue applicant must file a petition for an unintentionally delayed priority claim under 37 CFR 1.78(a)(3) in addition to filing a reissue application. See MPEP § 201.11. A 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.

Applicants state that a petition was filed to accept An unintentionally delayed claim under 35 U.S.C. § 120 on July 12, 2004. However, Office records do not indicate any such filing in the instant application. Only an amendment to the specification was filed on July 12, 2004, as noted above.

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 Ramesh Krishnamurthy at (571) 272-4914. 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 1774 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.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/889,640	07/12/2004	1774	770	VIT 0008 RA/31089.135/126	23	1

CONFIRMATION NO. 4462

CORRECTED FILING RECEIPT

23368
DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

OC000000031887854

Date Mailed: 09/05/2008

Receipt is acknowledged of this reissue 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)

Peter M. Martin, Kennewick, WA;
Gordon L. Graff, West Richland, WA;
Mark E. Gross, Pasco, WA;
Michael G. Hall, West Richland, WA;
Eric S. Mast, Richland, WA;

Power of Attorney: The patent practitioners associated with Customer Number 23368

Domestic Priority data as claimed by applicant

This application is a REI of 09/835,768 04/16/2001 PAT 6,623,861
which is a CIP of 09/427,138 10/25/1999 PAT 6,522,067

Foreign Applications

If Required, Foreign Filing License Granted: 10/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/889,640**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Multilayer plastic substrates

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APR 13 2009

OFFICE OF PETITIONS

HONEYWELL LAW DEPARTMENT
PATENT SERVICES
101 COLUMBIA ROAD
AB-2, P.O. BOX 2245
MORRISTON, NJ 07962-2245

In re Application of :
Robert S. Gao et al :
Application No. 10/889,651 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. H0005468-0555 (17480) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 4, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 December 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; 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) 272-3210. This application is being referred to Technology Center AU 2622 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.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Jon P. Christensen
120 South Riverside Plaza, Suite 2200
Chicago, IL 60606

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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Robert S. Gao	: DECISION ON REQUEST FOR
Patent Number	: 7667769	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,651	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Robert R. Pavlu JR.	: DECISION ON REQUEST FOR
Patent Number	: 7648059	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Calfee, Halter & Griswold LLP
800 Superior Ave., Sts. 1400
Cleveland OH 44114

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OCT 23 2009
OFFICE OF PETITIONS

In re Application of
Jeffrey A. SARGENT, et *al.*
Application No. 10/889,668
Filed: July 13, 2004
Attorney Docket No. **26416/05547**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

Calfee, Halter & Griswold LLP
800 Superior Ave., Sts. 1400
Cleveland OH 44114

In re Application of
Sargent, et al.
Application No. 10/889,668
Filed: July 13, 2004
Atty. Dkt. No.: 26416/05547

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2010.

The petition is **GRANTED**.

This application became abandoned March 22, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed December 21, 2009. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed March 31, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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NOV 09 2005

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

In re Application of	:	
Larry G. Banning	:	
Serial No.: 10/889,738	:	DECISION ON PETITION
Filed: July 13, 2004	:	
For: Combination Catheter and Stent System	:	

This is in response to applicants' petition filed September 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5-28-10**

TO SPE OF : ART UNIT **1793**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10889751** Patent No.: **7416597**

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/J.A. Lorengo/ 1793
SPE **Art Unit**

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OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
Shin, et al. :
Application No. 10/889,767 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. ALPSP162

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 16, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The above-identified application became abandoned for failure to reply to the final Office action mailed March 16, 2007, which set a shortened statutory period for reply of three months (3) from its mailing date. No response was received within the allowable period, and the application became abandoned on June 17, 2007. A Notice of Abandonment was mailed on October 18, 2007.

Petitioner argues that a reply the final Office action was transmitted via facsimile on June 13, 2007, and received by the Office. As evidence of the same, petitioner provides a copy of the certificate of transmission under 37 CFR 1.8 noting that a response was sent on June 13, 2007, and a copy of the transmission sheet indicating that 8 pages were transmitted to a USPTO facsimile on that same date.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2800, GAU 2833, for further processing including treatment of the Request for Continued Examination and Amendment filed in duplicate on November 16, 2007.

Inquiries 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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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of
YOSHIDA, Shin
Application No. 10/889,767
Filed: July 12, 2004
Attorney Docket No. **ALPSP162**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 05, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James E. Austin on behalf of all attorneys of record who are associated with customer No. 22434.

Haruo Yawata has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 06, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Alexandre Polozoff	: DECISION ON REQUEST FOR
Patent Number	: 7634755	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,777	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1133** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DENIRO/RAMBUS
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SAN FRANCISCO CA 94105

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Fred Ware et al	:
Application No. 10/889,799	:
Filed: July 13, 2004	:
Attorney Docket No. RAMB-01049US4	:

This is a decision on the petition, filed April 12, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2189 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
KANG, SUNG GU et al.	:	
Application No. 10/889,807	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. **23976-09213**	:	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 05, 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 Robert A. Hulse 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: **SUNG GU KANG**
6614 FOLKLORE ST.
SAN JOSE, CA 95120

cc: **STEVE TROLLOPE**
ARROW CAPITAL CORP.
6910 SANTA TERESA BLVD. 2ND FLOOR
SAN JOSE CA 95119

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/08/2010

Applicant	: Tao Chen	: DECISION ON REQUEST FOR
Patent Number	: 7643842	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/889,808	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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John R. Ross, III
Ross Patent Law Office
P.O. Box 2138
Del Mar, CA 92014

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MAY 09 2008

OFFICE OF PETITIONS

In re Application of

S.D. Lehman

Application No. 10/889,809

Filed: July 12, 2004

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed April 23, 2007, which set a shortened statutory period for reply of three-months from its mailing date. A response was not received within the allowable period and the application became abandoned on July 24, 2007. A Notice of Abandonment was mailed on February 21, 2007.

The Request for Continued Examination filed March 7, 2008, is noted.

The application file is being forwarded to Technology Center 3600, GAU 3644 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 22, 2008

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction for Appl. No.:/10/8889810 /7334881

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The certificate of correction has been entered.

MATTHEW LUU
SUPERVISORY PATENT EXAMINER
A.U. 2861

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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SYNNESTVEDT & LECHNER, LLP
1101 MARKET STREET
26TH FLOOR
PHILADELPHIA PA 19107-2950

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OFFICE OF PETITIONS

In re Application of	:	
Reynolds et al.		:
Application No.: 10/889812	:	ON PETITION
Filing or 371(c) Date: 07/13/2004	:	
Attorney Docket Number:	:	
P27622 USA	:	

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 October 31, 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 1, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on November 2, 2006. A Notice of Abandonment was mailed February 27, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3682 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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FOX ROTHSCHILD LLP
BLUE BELL
997 LENOX DRIVE
BUILDING 3
LAWRENCEVILLE NJ 08648-2311

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Timothy Schweikert et al	:	
Application No. 10/889,816	:	DECISION GRANTING PETITION
Filed: July 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MED0071	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 11, 2010, 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 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3767 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN TX 78758

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In re Application of

Bodin, et al.

Application No. 10/889,818

Filed: July 13, 2004

Attorney Docket No. AUS920040300US1

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 26, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,510.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed July 16, 2008. 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 October 17, 2008. A Notice of Abandonment was mailed on November 10, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on November 26, 2008.

The application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of
Alexander G. Macinnis et al
Application No. 10/889,820
Filed: July 13, 2004
Attorney Docket No. 13338US04

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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) 272-3208.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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TECHNOLOGY CENTER 2600

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of	:	
Toshihiko MYOJO	:	DECISION ON REQUEST TO
Application No. 10/889832	:	PARTICIPATE IN PATENT
Filed: July 13, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 1232-5465	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Makooi, et al. :
Application No. 10/889,839 : ON PETITION
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 4 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 13 July, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 1 September, 2004, the Office mailed a Notice to File Missing Parts;

- on 4 March, 2005, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by named inventor Makooi, who signed for himself and on behalf of named and non-signing inventors Earl Edwards (Mr. Edwards), Don D. Harlan (Mr. Harlan), Guy A. Cole (Mr. Cole), Eric Nelson (Mr. Nelson) and Arthur James Croone (Mr. Croone; and, *inter alia*, a narrative within the petition and correspondence by Petitioner Brian K. Johnson (Reg. No. 46,808), which represents that a diligent effort was made to determine the most current (and so last known) address for the non-signing inventors, and that the entire

application (specification, claims, drawings) was transmitted to non-signing inventors Messrs. Edwards, Harlan, Cole, Nelson and Croone, but that they have failed to submit a signed copy of the oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

EARL EDWARDS
9210 OLMSTEAD DRIVE
LAKEWORTH, FL 33414

In re Application of
Makooi, et al. :
Application No. 10/889,839 : CORRESPONDENCE
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

Dear Earl Edwards:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

DON D. HARLAN
15250 GOLDEN POINT LANE
WALLINGTON, FL 33414

In re Application of
Makooi, et al. :
Application No. 10/889,839 : CORRESPONDENCE
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

Dear Don D. Harlan:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

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(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

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Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

GUY A. COLE
10982 CRESCENDO CIRCLE
BOCA RATON, FL 33489

In re Application of
Makooi, et al. :
Application No. 10/889,839 : CORRESPONDENCE
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

Dear Guy A. Cole:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JJGJR.: 03-05

Paper No: __

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MAR 3 1 2005

OFFICE OF PETITIONS

ERIC NELSON
19536 SEA PINES WAY
BOCA RATON, FL 33489

In re Application of
Makooi, et al. :
Application No. 10/889,839 : CORRESPONDENCE
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

Dear Eric Nelson:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

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MAR 3 1 2005

OFFICE OF PETITIONS

ARTHUR JAMES CROONE
14 TROPICAL DRIVE
BOYNTON BEACH, FL 33435

In re Application of
Makooi, et al. :
Application No. 10/889,839 : CORRESPONDENCE
Filed: 13July, 2004 :
Attorney Docket No. 2003P07015 US01 :

Dear Arthur James Croone:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 2 8 2005

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:
Masayasu ASANO et al.
Application No. 10/889,850
Filed: July 12, 2004
For: SYSTEM AND METHOD FOR CONFIGURATION MANAGEMENT OF STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 15, 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 15, 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

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)
6977602	2005-12-20	10889851	2004-07-13	MAXM-0394

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	/Michael North/	Date (YYYY-MM-DD)	2009-12-23
Name	Michael V. North	Registration Number	46963

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6977602
Issue Date: December 20,2005
Application No. 10889851
Filed: July 13,2004
Attorney Docket No. 55123P312

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

In re Application of	:	
Fred Ware et al	:	
Application No. 10/889,852	:	ON PETITION
Filed: July 13, 2004	:	
Attorney Docket No. RAMB-01049US5	:	

This is a decision on the petition, filed October 5, 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 21, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2189 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VIERRA MAGEN MARCUS & DINIRO LLP
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Fred Ware et al	:	
Application No. 10/889,852	:	DECISION GRANTING PETITION
Filed: July 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RAMB-01049US5	:	

This is a decision on the petition, filed April 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2189 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.*

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/31/09

Patent No. :7548341
Inventor(s) :MAKIO GOTOH
Issued : 6/16/2009
Title : IMAGE PROCESSING DEVICE, IMAGE FORMING DEVICE, AND IMAGE PROCESSING METHOD
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals Col. 20 line 30 is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

RENNER OTTO, BOISSELLE & SKLAR LLP
1621 EUCLID AVENUE – NINETEENTH FLOOR
CLEVELAND, OHIO 44115-2191

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PAUL HASTINGS JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of Joseph A. Daniel et al Application No. 10/889,866 Filed: July 31, 2004 Attorney Docket No. 70465.00123	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 2009.

The request is **APPROVED**.

The request was signed by Robert M. Masters on behalf of the practitioners who are associated with Customer No. 36183.

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 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: Joseph A. Daniel
7946 N. Gannett Rd.
Sagamore Hills, OH 44067

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/889,866	07/13/2004	Joseph A. Daniel	70465.00123

CONFIRMATION NO. 7177

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000039334557

Date Mailed: 12/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

- 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
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
10/889,866	07/13/2004	Joseph A. Daniel	70465.00123

CONFIRMATION NO. 7177

POA ACCEPTANCE LETTER

Joseph A. Daniel
7946 N. Gannett Rd.
Sagamore Hills, OH 44067

OC000000039334602

Date Mailed: 12/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

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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JUL 2 1 2005

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of	:	
Flores et al	:	
Serial No.: 10/889,871	:	DECISION ON PETITION
Filed: July 13, 2004	:	
For: Ferroelectric Hyperthermia System and	:	
Method for Cancer Therapy	:	

This is in response to applicants' petition filed March 28, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF THE DIRECTOR
TC 3600

ROBERT J. VAN DER WALL
Suite 1620
Colonial Bank Centre
1200 Brickell Avenue
Miami, FL 33131

In re application of	:	**DECISION ON PETITION**
Donald E. Burg	:	**TO MAKE SPECIAL**
Application No. 10/889,894	:	**(APPLICANT'S AGE)**
Filed: July 12, 2004	:	
For: SURFACE EFFECT SHIP ADVANCEMENTS		

This is a decision on the petition submitted on July 12, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED.**

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Burg indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 9/15/04

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UNITED STATES DEPARTMENT OF COMMERCE
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CANTOR COLBURN LLP - SABIC (LEXAN/CYCOLOY)
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Sriramakrishna Maruvada	: DECISION ON REQUEST FOR
Patent Number	: 7597961	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,913	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:
Ting	: DECISION REFUSING
Application No. 10/889,915	: STATUS UNDER
Filed: July 13, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 2003-1311/24061.182	:
For: STRAIN ENHANCED ULTRA SHALLOW JUNCTION FORMATION	:

This is in response to the petition under 37 CFR 1.47(b), filed April 21, 2005 (certificate of mailing date April 18, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 13, 2004 without an executed oath or declaration and filing fees. Accordingly, on September 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on April 21, 2005 (certificate of mailing date April 18, 2005), petitioner filed a petition for a five month extension of time and required fee; a copy of an Employment Agreement between Taiwan Semiconductor Manufacturing Company, Ltd. (TSM) and non-signing inventor Steve Ming Ting that shows the inventor had a duty to assign rights in the invention to TSM; a declaration executed by Chien Wei Chou, Director, Intellectual Property Division of TSM, on behalf of the non-signing inventor; the surcharge; the petition fee; and the instant petition.

The petition, signed by Attorney Wei Wei Jeang explains that the application papers were twice mailed to Inventor Ting at his last known address. Petitioner asserts that the inventor refuses to sign the declaration or cannot be reached.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks items (1) and (2) set forth above.

As to item (1), applicant has failed to establish that the non-signing inventor, Mr. Ting, has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires **either** (1) a clear refusal to join, whether expressly or by conduct, **or** (2) a showing of diligence in trying to find an unavailable inventor. Petitioner must specify whether Mr. Ting is constructively refusing to cooperate or if he cannot be located.

If petitioner is alleging that Mr. Ting is constructively refusing to sign the declaration, then petitioner must establish that Mr. Ting received the application papers. See MPEP 409.03(d). The petition only states that the application papers were mailed by UPS on March 15, 2005 and that the application papers were mailed a second time via FedEx on March 30, 2005. Petitioner has not stated that the mailings were successful.

When petitioner can provide evidence that Mr. Ting received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioner will have established refusal to join in the filing of the application. Petitioner should clearly state for the record whether or not the March 15, 2005 and the March 30, 2005 mailings were successful.

If petitioner is asserting that Mr. Ting cannot be located, a somewhat modified approach is required. A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

If the aforementioned March mailings were returned to sender, then petitioner must engage in efforts to locate Mr. Ting. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor can not be found or

reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration is signed by Chien Wei Chou, Director, Intellectual Property Division, of TSM. It is not apparent that Mr. Chou has authority to bind TSM. The declaration should be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer). A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. MPEP 409.03(b)

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of Ting Application No. 10/889,915 Filed: July 13, 2004 Attorney Docket No. 2003-1311/24061.182 For: STRAIN ENHANCED ULTRA SHALLOW JUNCTION FORMATION	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed July 25, 2005 (certificate of mailing date July 22, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 13, 2004 without an executed oath or declaration and filing fees. Accordingly, on September 17, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on April 21, 2005 (certificate of mailing date April 18, 2005), petitioner filed a petition for a five month extension of time and required fee; a copy of an Employment Agreement between Taiwan Semiconductor Manufacturing Company, Ltd. (TSM) and non-signing inventor Steve Ming Ting that shows the inventor had a duty to assign rights in the invention to TSM; a declaration executed by Chien Wei Chou, Director, Intellectual Property Division of TSM, on behalf of the non-signing inventor; the surcharge; the petition fee; and the instant petition.

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.

The April 21, 2005 (certificate of mailing date April 17, 2005) petition was dismissed on May 23, 2005 for failure to comply with items (1) and (2) above.

Taking the April 21, 2005 (certificate of mailing date April 18, 2005) petition and the instant reconsideration petition together, petitioner has satisfied items (1), (3), (4), (5), and (6) above. However, petitioner still lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Petitioner now states, "Applicants further submit that the application be made by the other signing inventors on behalf of themselves and on behalf of the nonsigning inventor, Steve Ming Ting." However, there is only one inventor for this application.

The declaration submitted on April 21, 2005 (certificate of mailing date April 18, 2005). is signed by Chien Wei Chou, Director, Intellectual Property Division, of TSM. It is not apparent that Mr. Chou is an officer of the corporation or has authority to bind TSM. An officer of the corporation is normally a President, Vice-President, Secretary, Treasurer of Chief Executive Officer. A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of	:
Ting	: DECISION ACCORDING
Application No. 10/889,915	: STATUS UNDER
Filed: July 13, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 2003-1311/24061.182	:
For: STRAIN ENHANCED ULTRA SHALLOW JUNCTION FORMATION	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed October 3, 2005 (certificate of mailing date September 28, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventor, Steve Ming Ting, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the second reconsideration petition establish that two mailings of the application papers to Mr. Ting were successful, but that Mr. Ting did not return an executed declaration. In addition, petitioner has shown that Taiwan Semiconductor Manufacturing Company Ltd. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to the company . Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner should submit a supplemental ADS updating information for Mr. Ting. It is noted his citizenship, residence, and mailing address in the original ADS and the declaration do not match.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVE MING TING
33 MUIRFIELD LANE
BRIDGEWATER, NJ 08801

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OFFICE OF PETITIONS

LETTER

In re Application of
Ting
Application No. 10/889,915
Filed: July 13, 2004
Attorney Docket No. 2003-1311/24061.182
For: STRAIN ENHANCED ULTRA SHALLOW JUNCTION FORMATION

Dear Mr. Ting:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR **1.47(b)**, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

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OFFICE OF PETITIONS

In re Application of
Tao Chen, et al.
Application No. 10/889,926
Filed: July 12, 2004
Attorney Docket No. 030461

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by May 16, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed September 2, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). This decision precedes the mailing of a Notice of Abandonment.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed May 16, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Eugene Antony Whang	: DECISION ON REQUEST FOR
Patent Number	: 7616097	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/889,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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DEC 15 2004

OFFICE OF PETITIONS

In re Application of :
Crowe et al. :
Application No. 10/889,935 : DECISION DISMISSING PETITION
Filed: July 12, 2004 :
Attorney Docket No. 023070-149670US:

This is a decision on the petition filed October 29, 2004, requesting that the above-identified application be accorded a filing date of July 12, 2004, with Figure 39 described in the specification as part of the original disclosure.

On July 12, 2004, applicants filed the above-identified application. On September 2, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of July 12, 2004, and advising applicants that Figure 39 appeared to have been omitted. Additionally, the Notice required the submission of an oath or declaration and a surcharge for its late filing.

In response, on October 29, 2004, applicants submitted, *inter alia*, the present petition, a declaration, a postcard receipt acknowledging receipt of "39 pages" of drawings on July 12, 2004, and an authorization to charge the Deposit Account for any necessary fees. Applicants stated that Figures 39 was present on filing as evidenced by the date-stamped postcard receipt.

Upon review of the record, the one sheet of drawings containing Figure 39, deposited on July 12, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 12, 2004, included 39 sheets of drawings, one sheet (Figure 39) of which was subsequently misplaced in the United States Patent and Trademark Office. Unfortunately, the present petition must be <u>dismissed</u> because applicants failed to submit the one sheet of drawings containing Figure 39.

The present petition is dismissed without prejudice. Any renewed petition under 37 CFR 1.182 must be filed within TWO MONTHS of the date of this decision and be accompanied by a copy of the one sheet of drawings containing Figure 39. This period is not extendable. See 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Crowe et al. :
Application No. 10/889,935 :
Filed: July 12, 2004 :
Attorney Docket No. 02307-149670US :

DECISION ON PETITION

This is a decision on the renewed petition filed January 3, 2005, requesting that the above-identified application be accorded a filing date of July 12, 2004, with Figure 39 described in the specification as part of the original disclosure.

On July 12, 2004, applicants filed the above-identified application. On September 2, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of July 12, 2004, and advising applicants that Figure 39 appeared to have been omitted. Additionally, the Notice required the submission of an oath or declaration and a surcharge for its late filing.

In response, on October 29, 2004, applicants submitted, *inter alia*, the original petition, a declaration, a postcard receipt acknowledging receipt of "39 pages" of drawings on July 12, 2004, and an authorization to charge the Deposit Account for any necessary fees. Applicants stated that Figures 39 was present on filing as evidenced by the date-stamped postcard receipt.

Upon review of the record, the one sheet of drawings containing Figure 39, deposited on July 12, 2004, could not be located among the application papers. However, the evidence was convincing that the application papers deposited on July 12, 2004, included 39 sheets of drawings, one sheet (Figure 39) of which was subsequently misplaced in the United States Patent and Trademark Office. Unfortunately, the original petition was dismissed by the decision

of December 15, 2004, because applicants failed to submit the one sheet of drawings containing Figure 39.

On January 3, 2004, applicants filed the present renewed petition and Figure 39.

Accordingly, the present renewed petition is **granted.** The $400.00 fee for the renewed petition is unnecessary, and therefore, will be credited to Deposit Account No. 20-1430.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of July 12, 2004,** using the application papers submitted on that date and Figure 39 submitted on January 3, 2005.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ.
KILPATRICK STOCKTON, LLP
1100 PEAHTREE STREET
ATLANTA GA 30309

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Leslie P. Duke et al :
Application No. 10/889,946 :
Filed: July 13, 2004 :
Attorney Docket No. 54670/302927 :

ON PETITION

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 **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)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1), (2), and (3).

The Office records only show receipt of the cover page and the first page of the petition under 37 CFR 1.137(b) for the instant application.

---

[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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOHN S. PRATT, ESQ.
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of :
Leslie P. Duke et al :
Application No. 10/889,946 : ON PETITION
Filed: July 13, 2004 :
Attorney Docket No. 54670/302927 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/601,194, filed November 17, 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 25 2006
OFFICE OF PETITIONS

Rupak Nag
Genesis LLP
2170 Century Park E Ste 1210
Los Angeles, CA 90067

In re Application of	:	
Oakley	:	
Application No. 10/889,965	:	DECISION ON PETITION
Filed: July 13, 2004	:	TO WITHDRAW
Attorney Docket No. SA-P001	:	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 2, 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 Rupak Nag the sole attorney of record.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Johanne Oakley
3170 Buckingham Road
Glendale, CA 91206

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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2040 MAIN STREET
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IRVINE, CA 92614

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
BARNEY et al	:	
Application No.: 10/889,974	:	DECISION ON PETITION
Filing Date: July 13, 2004	:	UNDER 37 CFR 1.78
Attorney Docket No.: CKING.002C1 (P-10542-US)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of the prior-filed application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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).

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 where there is a question whether the delay was unintentional.

The petition does not satisfy item (3) above.

Although the person signing the statement of unintentional delay has apparent authority to sign on behalf of the purported assignee, ownership of the application has not been established under 37 CFR 3.73(b).

Before the petition under 37 CFR 1.78(a)(3) can be granted, correction of the above matter is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

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IRVINE, CA 92614

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JUN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
BARNEY et al	:	
Application No.: 10/889,974	:	DECISION ON PETITION
Filing Date: July 13, 2004	:	UNDER 37 CFR 1.78
Attorney Docket No.: CKING.002C1 (P-10542-US)	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of the prior-filed application set forth in the amendment filed 14 August 2006.

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 applications, 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 3714 for examination of the application on the merits, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 119(e) and 120 to the prior-filed applications.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/889,974	07/13/2004	3714	3520	CKING.002C1	68	4

CONFIRMATION NO. 6588

CORRECTED FILING RECEIPT

OC000000023980593

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 05/21/2007

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)

Jonathan A. Barney, Newport Beach, CA;
Denise Chapman Weston, Wakefield, RI;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/792,282 02/22/2001 PAT 6,761,637
which claims benefit of 60/184,128 02/22/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/889,974

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Magic-themed adventure game

Preliminary Class

463

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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JJGJR.: 03-05

Paper No. __

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OFFICE OF PETITIONS

In re Application of	:	
Kajiwara	:	
Application No. 10/889,997	:	DECISION ON PETITION
Filed: 13 July, 2004	:	
Attorney Docket No. F-8293	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed on 7 October, 2004, requesting that page 5 of the specification (description and claims), be accorded a filing date of 13 July, 2004, with the above-identified application .

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

The application was deposited on 13 July, 2004.

On 30 September, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items" and therein indicated that page 5 of the specification (description and claims) appeared to be omitted from the application. The Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with the drawings; (b) file the drawings and accept their deposit date as the filing date of the application; or (c) prosecute the application as deposited on 13 July, 2004.

On 7 October, 2004, Petitioner filed the instant petition and: (a) alleged therein that page 5 (description and claims) was submitted as evidenced by a copy of the receipt card submitted with the petition, and (b) submitted a copy of page 5 (description and claims).

ANALYSIS

A review of the record evidences that:

- the application was deposited on 13 July, 2004;

- Petitioner's date-stamped ("071304") itemizes the papers received by the Office, *inter alia*:

* * *

Enclosed is a new U.S. Patent application consisting of 131 pages of specification (including claims and abstract) (emphasis added)

* * *

- the papers previously acknowledged as received included the sequentially numbered pages of the specification (1 - 4, 6 - 121) and the claims (122 - 130), along with a single page of abstract (131), totaling 131 pages;

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including page 5 (description and claims), was deposited with the Office on 13 July, 2004, and page 5 (description and claim) subsequently was misplaced in the Office.

The petition is **granted**, the petition fee waived, and the petition fee ($130.00) will be credited to Deposit Account 10-1250.

The "Notice of Missing Parts" mailed on 30 September, 2004, was is hereby vacated as to the reference to an omitted page 5 (description and claims).

This application is released to OIPE for further processing with a filing date of 13 July, 2004, for the entire application and in particular for page 5 (description and claims), using:

- **the 130 pages of specification (description, claims and abstract) and 47 sheets of drawings deposited on 13 July, 2004; and**

- **page 5 (description and claims) deposited on 7 October, 2004; and**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 13 July, 2004, and reflecting therein that 131 pages of specification (description, claims and abstract) and 47 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Schenk, et al.	:	DECISION GRANTING
Application No. 10/889,999	:	PETITION
Filed: July 12, 2004	:	
Attorney Docket No. 15270J-004768US	:	

This is a decision on the petition under 37 CFR 1.10(c), filed September 20, 2004, requesting that the above-identified application be accorded a filing date of July 12, 2004, rather than the presently accorded filing date of July 13, 2004.

Petitioners allege that the application was deposited in Express Mail service on July 12, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV386863692US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of July 12, 2004. Furthermore, the Express Mail Receipt also contains a USPS date-stamp of July 12, 2004.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of July 12, 2004.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of July 12, 2004 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 1600 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

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Dale B. Schenk et al.
Application No. 10/890,000
Filed: July 12, 2004
Attorney's Docket No. 15270J-004769US

ON PETITION

This is a decision on the petition filed September 20, 2004, under 37 CFR 1.10.

The petition is **DISMISSED** as involving moot issues.

Petitioners request that the filing date be corrected to July 12, 2004, as the date that the application was deposited in Express Mail service instead of July 13, 2004.

A review of Office PALM records indicates that the application is presently accorded a filing date of July 12, 2004. The petition is therefore dismissed as moot. A copy of a corrected filing receipt accompanies this decision.

In view of the above, no fees are due and none have been charged.

This matter is being referred to Technology Center 1647 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Official Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Fred Ware et al	:	
Application No. 10/890,001	:	DECISION GRANTING PETITION
Filed: July 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. RAMB-01049US6	:	

This is a decision on the petition, filed March 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2189 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\Mar10\890001.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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SEP 26 2007

OFFICE OF PETITIONS

William O'Driscoll - 12-1
Trane
3600 Pammel Creek Road
La Crosse WI 54601

In re Application of :
Rentmeester, et al. : DECISION ON PETITION
Application No. 10/890,003 :
Filed: July 13, 2004 :
Docket No.: D-2685A/WOD :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 23, 2007 for failure to timely reply to the non-final Office action mailed December 22, 2006. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time fee ($1,020.00) submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary.

Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application is being forwarded to Technology Center 2100 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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United States Patent and Trademark Office
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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Watson
Application No. 10/890,009
Filed: July 12, 2004
Attorney Docket No. 54317-028202
For: DUAL VIRTUAL MACHINE ARCHITECTURE FOR MEDIA DEVICES

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The request to add the prior-filed applications is not acceptable as drafted since it improperly

incorporates by reference all the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The rationale holds true for section 119, also. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment to the first line of the specification deleting the improper incorporation by reference statement with respect to all applications other than 10/880,060 is required.[1]

The substitute amendment must begin on a separate sheet of paper and comply with 37 CFR 1.121. The titles of the applications should **not** be included in the amendment. For prior nonprovisional applications, the application's serial number and filing date and the relationship between the present application and the prior application are required. For provisional applications, the prior application's serial number and filing date are required.

Pursuant to petitioner's authorization, deposit account no. 50-2638 will be charged a $1,370.00 petition fee.

---

[1] While applicant did not specifically list application no. 10/880,060 in the specification filed on July 12, 2004, there were sufficient identifiers present on that date so that the incorporation by reference statement is valid. In re Fouche, 439 F.2d 1237 (CPPA 1982).

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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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JUN 1 4 2005

OFFICE OF PETITIONS

In re Application of
Watson
Application No. 10/890,009
Filed: July 12, 2004
Attorney Docket No. 54317-028202
For: DUAL VIRTUAL MACHINE ARCHITECTURE FOR MEDIA DEVICES

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the reconsideration petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the petition.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period

specified in 37 CFR §§ 1.78(a)(2)(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).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR § 1.78(a)(5)(ii). Additionally, newly claimed application no. 10/880,060, filed June 28, 2004, was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/481,034, filed on June 27, 2004 (a Sunday), Application No. 60/481,066, filed July 7, 2003, and Application No. 60/493,072, filed on August 5, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR § 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed nonprovisional and provisional 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 <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and § 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR § 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2131 for appropriate action on the amendment submitted May 2, 2005, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR §1.78(a)(2) for the benefit of the prior-filed application, and

for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR § 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Schenk, et al. :
Application No. 10/890,024 : DECISION ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. 15270J-004767US:

This is a decision on the "PETITION FOR FILING DATE UNDER 37 C.F.R. § 1.53(e)", filed November 17, 2004, to accord the above-identified application a filing date of July 12, 2004, with pages 11-13, 17-19, 77-78, and 97 as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 12, 2004. However, on September 22, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, pages 11-13, 17-19, 77-78, and 97 of the specification appeared to have been omitted.

In response, applicants filed the instant petition. Accompanying the petition was a copy of pages 11-13, 17-19, 77-78, and 97 of the specification. Applicants maintain that the application as originally filed included these pages of specification. In support thereof, applicants submitted a postcard receipt identifying this application, itemizing "Specification (139 pp., including Sequence Listing (24 pp.)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 12, 2004, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $130 petition fee has been refunded to Deposit Account No. 20-1430.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 12, 2004, using the application papers received in the Office on that date and pages 11-13, 17-19, 77-78, and 97 of the specification as resupplied on petition filed November 17, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : October 24, 2007

Patent No. : 7276079 B2
Application No : 10/890032
Inventor(s) : Sievers
Issued : Oct. 2, 2007
Title : **IMPLANT WITH AN ANNULAR BASE**
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

CBN/eme

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : March 20, 2008

Patent No. :7,015,736
Inventor(s) :David H. Shein et al
Issued :March 21, 2006
Title :SYMMETRIC CHARGE PUMP
Docket No. :18085-032001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

David R. Fairbairn, Kinney & Lange, P.A.
312 South Third Street
Minneapolis, MN 55415-1002

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : March 20, 2008

Patent No. :7,015,736
Inventor(s) :David H. Shein et al
Issued :March 21, 2006
Title :SYMMETRIC CHARGE PUMP
Docket No. :18085-032001

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Dwight U. Thompson
Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, Minnesota 55440-1022

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OFFICE OF PETITIONS

Kermit Lopez/Luis Ortiz
ORTIZ & LOPEZ, PLLC
P.O. Box 4484
Albuquerque NM 87196-4484

In re Application of Zelman et al. Application No. 10/890,044 Filed: July 13, 2004 Attorney Docket No. D/A1405 Title: SELECTIVE MANUFACTURING RESOURCE PLANNING METHODS AND SYSTEM	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 19, 2005, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on July 13, 2004, without a fully executed oath or declaration. It appears that the purported representative of assignee (Xerox) has improperly signed the non-signing inventor's name to the declaration. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. The assignee execution of a declaration is appropriate where there are no inventors signing the declaration. See MPEP 409.03 (a) and (b).

In reply, applicant filed a petition,and a partially executed declaration. Pursuant to petitioner's request deposit account 24-0037 has been charged the $130.00 surcharge for late filing of the fully executed oath or declaration.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (1) and (4).

As to item (1), before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The e-mail presented only indicates assignment papers were sent. Inventor Wallenhorst must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

As to item (4) , a statement of the last known address of the non-signing inventor needs to be provided in the petition. If the last known address is the same as the one provided in the declaration such a statement should be provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kermit Lopez/Luis Ortiz
ORTIZ & LOPEZ, PLLC
P.O. Box 4484
Albuquerque NM 87196-4484

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of
Spring et al.
Application No.10/890,044
Filed: July 13, 2004
Attorney Docket Number: S/A1405
Title: Selective Manufacturing Resource
Planning Methods And System

DECISION

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 4, 2005.

In view of the assertion that inventor John F. Wallenhorst executed the declaration submitted on July 13, 2004 , further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **Dismissed As Moot** . This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Office allows applications that have fully executed declarations to undergo examination without a full assignment. See MPEP 301.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Jesse Grodnik	: DECISION ON REQUEST FOR
Patent Number	: 7627785	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1541** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Schenk, et al. :
Application No. 10/890,071 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. 15270J-947602US :

This is a decision on the petition under 37 CFR 1.53 filed November 24, 2004, requesting that the above-identified application be accorded a filing date of July 12, 2004, including eighteen (18) sheets of drawings.

The application was submitted on July 12, 2004. However, on October 19, 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 November 24, 2004, the instant petition was submitted. Petitioner argues that eighteen (18) sheets of drawings were filed on July 12, 2004. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "18 Drawing Sheets" on July 12, 2004. A review of the application file indicates the presence of zero (0) sheets of drawings. It is assumed that missing sheets of drawings were misplaced by the Office.

In view of the above, the petition is granted.

The $400.00 petition fee will be refunded to deposit account no. 20-1430.

This application will be returned to OIPE for further processing with a filing date of July 12, 2004, using the eighteen (18) sheets of drawings, supplied on November 24, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/1/05

2 Serial/Patent # 10/890,071

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
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✓	Petition	IFW	11/24/04	$ 400
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7 TOTAL AMOUNT OF REFUND: $400

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- [✓] Credit Deposit A/C #:

9 20--1430

10 REASON:

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TYPED/PRINTED NAME: E. Kinnonse TITLE: Pat. Atty.

SIGNATURE: [signature] PHONE: 23228

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APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Chou, et al.	:	
Filed: July 14, 2004	:	ON PETITION
Application No. 10/890,121	:	
Dkt. No.: 3722-0204PUS1	:	

This decision is in response to the "PETITION TO ACCORD FILING DATE SINCE DRAWINGS WERE TIMELY FILED," filed October 29, 2004.

The petition is **DISMISSED**.

The application was submitted July 14, 2004. On September 10, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that the instant application "incorporated reference the Taiwanese priority document 092119508. Therefore, the drawings of this Taiwanese priority document are a part present application." Petitioner has also argues that Figs. 11 and 12A-12D are not necessary for an understanding of the invention and have been omitted by amendment.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification

as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of July 14, 2004. Thus, the instant petition to accord the application a filing date is unnecessary and the Notice of Incomplete Application mailed September 10, 2004 was mailed in error and is hereby withdrawn.

The application will be processed with only the papers present on July 14, 2004, without drawings as part of the original disclosure.

It is noted that the instant petition included a second preliminary amended addressing the matter of admission of the drawings. Said amendment will be addressed by the appropriate group art unit in due course.

No fee is due in connection with this matter. A refund of $130.00 has been requested on petitioners' behalf from the Finance Office, Refund Section.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 14, 2004 using only the papers present on that day.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Kuo, Chin-Chang	:	
Application No. 10/890,137	:	DECISION ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. MR2349-1653	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3654 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500 3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Ahti HEINLA, et al	:	
Application No. 10/890,160	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. 076961-0103	:	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 5, 2009.

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 Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because no correspondence address for future communications from the Office has been 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 the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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JOHN P. HALVONIK
LAW OFFICE OF JOHN P HALVONIK
15200 SHADY GROVE RD
SUITE 202
ROCKVILLE MD 20850

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JUN 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Donald O'Neill	:	
Application No. 10/890,221	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. SKI.007C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John P. Halvonik on behalf of himself.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Donald O'Neill at the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DONALD O'NEILL
9305 KOBE WAY
MONTOGOMERY VILLAGE, MD 20886

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ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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OFFICE OF PETITIONS

In re Application of	:	
NISHI et al	:	
Application No.: 10/890,222	:	DECISION ON PETITION
Filing Date: July 14, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: SKI.007C	:	

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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 27, 2005, which set a three (3) month shortened statutory period for response. 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 December 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of arguments; (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 September 27, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2812 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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OFFICE OF PETITIONS

In re Application of
Regina L. Winstead, et al.
Application No. 10/890,230
Filed: July 14, 2004
Attorney Docket No. ATL03001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 31, 2008.

It is noted that the person signing the instant petition is not an attorney of record in the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of David J. O'Neill appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before September 28, 2007. A Notice of Abandonment was mailed on October 25, 2007. On January 31, 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 $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Toshiki Tada Application No. 10/890,259 Filed: July 14, 2004 Attorney Docket No. 60188-901	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

In re Application of	:
Toshiki Tada	:
Application No. 10/890,259	: DECISION GRANTING PETITION
Filed: July 14, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-901	:

This is a decision on the petition, filed August 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2622 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Bernard Paul Joseph Thiers	: DECISION ON REQUEST FOR
Patent Number	: 7624552	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/890,284	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BARNES AND THORNBURG
11 South Meridan
Indianapolis, IN 46204

JUN 2 2006

In re Application of:
Michael J. Smith
Serial No.: 10/890,287
Filed: July 13, 2004
Title: TAPE MEASURE DEVICE

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request by Carli E. Stewart to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed via facsimile transmission on October 5, 2005. The request was made on behalf of all the attorneys/agents associated with Customer Number 23643 which are all the attorneys/agents presently of record.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

It is noted that the application is now abandoned. There are no attorneys/agents of record at this time.

As requested, all future communications from the Office will be directed to the inventor, Mr. Michael J. Smith, at the address provided below unless otherwise notified by applicant.

Any inquiries concerning this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

Michael J. Smith
Kayin Paige, LLC
P.O. Box 17822
Indianapolis, IN 46237

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Eun-Kyung Lee, et. al.	:	
Application No. 10/890,289	:	DECISION ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. Q82494	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 19, 2007, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.181 filed on December 28, 2007, requesting to supplement the petition filed on March 19, 2007 and to request withdrawal of the holding of abandonment.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before February 5, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 3, 2007. A Notice of Abandonment was mailed on March 5, 2007.

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 application. However, in accordance with 37 CFR 1.34(a), the signature of Mark E. Wallerson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Petitioner asserts that the Notice dated November 3, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice 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 Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

Since the petition satisfies the above-stated requirements, the petition under 37 CFR 1.181 is **GRANTED**.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The Office acknowledges receipt of $1,500 for treatment of the petition to revive under 37 CFR 1.137(b), $1,400 for payment of the issue fee and $300 for payment of the publication fee submitted on March 19, 2007. However, since the evidence is convincing that petitioner never received the Notice of Allowance mailed November 3, 2006, the petition under 37 CFR 1.137(b) is unnecessary and the petition fee of $1,500 will be refunded to petitioner's deposit account.

This application is being referred to the Office of Data Management for processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Zvi Nitzan	: DECISION ON REQUEST FOR
Patent Number	: 7647100	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1514** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Shinichiro Motoyoshi	: DECISION ON REQUEST FOR
Patent Number	: 7623666	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/890,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Tatsuo KIKUCHI et al. :
Application No. 10/890,318 : DECISION ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. **011.0003** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 06, 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 09, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 10, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 09, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1763 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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AUG 19 2008

OFFICE OF PETITIONS

In re Application of :
John D. LARSON III. :
Application No. 10/890,343 :
Filed: July 13, 2004 :
Attorney Docket No. **10030607-1** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 04, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 05, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of June 04, 2007 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2823 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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) 10030607-01

First named inventor: John D Larson III

Application No.: 10/890,343 Art Unit: 2823

Filed: July 13, 2004 Examiner: Lalrinfamkim Hmar Malsawma

Title: Film Bulk Acoustic Resonator Package And Method of Fabricating Same

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 $ _____.
☐ 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	1/9/08 Date
Scott Weitzel Typed or printed name	54,534 Registration Number, if applicable
4380 Ziegler Road Address	970-288-0731 Telephone Number
Fort Collins CO 80525 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

AVAGO TECHNOLOGIES, LTD.
4380 Ziegler Road, Attn: Kathy Manke, MS 76
Fort Collins, CO 80525-9640

ATTORNEY DOCKET NO. 10030607-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John Larson

Serial No.: 10/890,343

Examiner: Malsawma, Lalrinfamkim Hmar

Filing Date: July 13, 2004

Group Art Unit: 2823

Title: FILM BULK ACOUSTIC RESONATOR PACKAGE AND METHOD OF FABRICATING SAME

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

REQUEST FOR CONTINUED EXAMINATION (RCE) 37 CFR 1.114

Subsection (b) of 35 U.S.C. 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.
See The American Inventors Protection Act of 1999 (AIPA).

Sir:

This is a Request for Continued Examination (RCE) under CFR 1.114 of the above-identified application.

NOTE: 37 CFR 1.114 is effective on May 20, 2000. If the above application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under CFR 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 off. Gaz. Pat. Office 47 (Apr.11, 2000), which Established RCE practice.

Submission under 37 CFR 1.114

- [ ] Previously submitted:
  - [ ] Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on _____.
    (Any unentered amendment(s) referred to above will be entered).
  - [ ] Consider the arguments in the Appeal Brief or Reply Brief previously filed on
  - [ ] Other:
- [x] Enclosed:
  - [x] Amendment/Reply
  - [ ] Affidavit(s)/Declarations(s)
  - [x] Information Disclosure Statement (IDS)
  - [ ] Other:

Miscellaneous

- [ ] Suspension of action is requested under 37 CFR 1.103(c) for a period of months.
  The fee for this Suspension is (37 CFR 1.17(i)) **$130.00**.
- [ ] Other:

RCE filing fee **$810.00**

☐ A Petition for Extension of Time

☐	One month	$120.00
☐	Two months	$460.00
☐	Three months	$1050.00
☐	Four months	$1640.00

Please charge to Deposit Account **50-3718** the sum of $810.00 . At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account **50-3718** pursuant to 37 CFR 1.25.

A duplicate copy of this transmittal letter is enclosed.

☒ I hereby certify that this paper is being electronically transmitted to the Commissioner for Patents on the date shown below.

Date of Transmission: 1/21/08

Typed Name: Adrienne L Barclay

Signature: Adrienne L Barclay

Respectfully submitted,

John Larson

By Scott Weitzel

Scott Weitzel
Attorney/Agent for Applicant(s)

Reg. No. 54,534

Date: 1/21/08

Telephone No. 970.288.0747

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10890343 Total Records Found: 11

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
01/22/2008	00015864	4	1453	$1,540.00	01/21/2008	DA 503718
01/22/2008	00015865	4	1801	$810.00	01/21/2008	DA 503718
08/30/2006	00000093	1	1402	$500.00	08/29/2006	DA 503718
07/11/2006	00000072	1	1401	$500.00	07/10/2006	DA 503718
01/27/2006	00000149	1	1806	$180.00	01/11/2006	DA 503718
12/30/2005	00000025	1	1202	$200.00	12/28/2005	DA 501078
08/23/2005	00000038	1	1251	$120.00	08/22/2005	DA 501078
04/13/2005	00000200		8007	$20.00	04/11/2005	DA 501078
12/30/2004	00000052	4	8021	$40.00	12/29/2004	DA 501078
07/15/2004	00000091	1	1001	$770.00	07/13/2004	DA 501078
07/15/2004	00000092	1	1202	$108.00	07/13/2004	DA 501078

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UNITED STATES DEPARTMENT OF COMMERCE
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Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Suite 200
St. Louis, MO 63131-3615

Mail Date: 04/21/2010

Applicant	: Michael D. Gerdes	: DECISION ON REQUEST FOR
Patent Number	: 7640832	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.