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CLEVELAND OH 44115-1475

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Lutz Gerhard Eduard Filor :
Application No. 10/890,346 : ON PETITION
Filed: July 13, 2004 :
Attorney Docket No.: 64272/00002 :

This is a decision on the petition filed November 9, 2004 under 37 CFR 1.182, to accept the date the omitted item (figure 8) was filed in the USPTO as the above-identified application filing date.

The application was filed on July 13 2004. However, on September 10, 2004, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of July 13, 2004 but figure 8 as described in the specification appeared to have been omitted.

In response, figure 8 as described in the specification and the present petition was filed on November 9, 2004. The petition states applicant elects to submit figure 8 and accept the date the figure is received in the Office as the new filing date for the above-identified application.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1)promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to

such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "notice of Omitted Items" (37 CFR 1.181(f)).

The petition is Granted.

The Office acknowledges receipt of the supplemental declaration.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of November 9 2004** using the application papers received in the Office on that date.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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Paper No: __

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CLEVELAND OH 44115-1414

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OFFICE OF PETITIONS

In re Application of Filor Application No. 10/890,346 Filed:9 November, 2004 Attorney Docket No.: 64272/00002	: : : : :	ON PETITION

This is a decision on the petition filed 27 February, 2006, and considered under 37 C.F.R. §1.182.

The petition is **GRANTED**.

BACKGROUND

This is a decision on the request filed on 27 February, 2007, under 37 C.F.R. §1.182 to withdraw the Terminal Disclaimer filed on 3 January, 2007, from the instant application.

The petition under 37 C.F.R. §1.181 and §1.182 is **GRANTED**.

BACKGROUND

It appears that:

Petitioner is prosecuting the instant application on behalf of the Applicant, and, 0n 3 January, 2007, Petitioner filed, *inter alia*, certain papers, including a Terminal Disclaimer with fee authorization.

Petitioner now sets forth that the terminal disclaimer filed herein was filed in error and seeks to have the Terminal Disclaimer filed on 3 January, 2007, withdrawn from the instant application.

The Examiner has indicated (upon inquiry from the Office of Petitions) his assent (a copy of which is made of record) to the request to withdraw the terminal disclaimer previously filed by Petitioner as associated with the instant application.

Accordingly, the petition as considered under 37 C.F.R. §1.182 to withdraw the terminal disclaimer previously filed by Petitioner on 3 January, 2007, with this application is **granted**.

The instant file is being released to the Examiner in Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[3] 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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4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Shiva Prakash, Feng Li, and Linnette :
Amarilys Lopez Gutierrez :
Application No. 10/890,360 :
Filed: July 13, 2004 :
Attorney Docket No. UC0227USCIP :
Title: PROCESS FOR REMOVING AN :
ORGANIC LAYER DURING :
FABRICATION OF AN ORGANIC :
ELECTRONIC DEVICE AND THE :
ORGANIC ELECTRONIC DEVICE :
FORMED BY THE PROCESS :

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

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

On July 13, 2004, the application was deposited, identifying Shiva Prakash, Feng Li, and Linnette Amarilys Lopez Gutierrez as joint inventors. No oath or declaration was included on filing. On September 10, 2004, a "Notice to File Missing Parts of Nonprovisional Application –

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

Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. This Notice set a two-month period for reply. With the instant petition, Petitioner has also submitted the petition fee, the associated surcharge, the last known address of the non-signing inventor, a declaration which has been executed by inventors Prakash and Guiterrez, and two statements of facts. Petitioner has further included a three-month extension of time to make timely this response.

Petitioner has met each of the 5 requirements above.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

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

Paul Shanoski

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

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In re Application of

Hsu, et al.

Application No. 10/890,368

Filed: July 13, 2004

Attorney Docket No. 01017/35550D

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed September 2, 2008.

The petition is **granted**.

This application was held abandoned May 21, 2008, after no reply was received to the Notice of Allowance and Issue Fee Due mailed February 20, 2008. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on May 21, 2008. The instant petition was filed on September 2, 2008. Petitioner maintains that the Notice of Allowance and Issue Fee Due 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 the Office of Data Management for further processing that may include remailing the Notice of Allowance and Issue Fee Due 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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CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of	:
Eric D. Clamage	:
Application No. 10/890,372	: DECISION GRANTING PETITION
Filed: July 14, 2004	: UNDER 37 CFR 1.47(b)
For: LIQUID CRYOGEN DOSING SYSTEM	:
WITH NOZZLE FOR PRESSURIZED AND	:
INERTING CONTAINERS	

This is in response to the "Petition Under 37 CFR 1.47(b)," filed November 9, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Ramon R. Hoch and the affidavit of Thomas A. Marcoux establish that the inventor was mailed the application papers, including the specification, claims and drawings, but refused the request that he sign the declaration. In addition, petitioner has shown that Kraft Foods Holdings, Inc. (Kraft) has a proprietary interest in the above-identified application with the copy of the "Employee Confidentiality and Assignment Agreement" and "Confirmation of Obligations and Receipt of Agreement" showing that the inventor had an obligation to assign any patent rights to Kraft. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

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

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the

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

The application will be forwarded Technology Center 3700 for examination *in due course*.

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

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

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OFFICE OF PETITIONS

ROBROY R FAWCETT
1576 KATELLA WAY
ESCONDIDO CA 92027

In re Application of

LAZZARO, Michael J.
Application No. 10/890,399
Filed: July 13, 2004
Attorney Docket No. **ZM01**

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 17, 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 Robroy R. Fawcett 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: **MICHAEL J. LAZZARO**
532 LA GUARDIA PLACE
SUITE 526
NEW YORK, NY 10012

cc: **AHMAD R. SHISHEGAR**
24130 KILLION ST.
WOODLAND HILLS, CA 91367

UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2004

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DORSEY & WHITNEY, LLP
Four Embarcadero Center, Suite 3400
San Francisco, California 94111-4187

In re Application of	:	DECISION ON
DEPPERT	:	
Application No.: 10/890,433	:	PETITION
Filing Date: April 22, 2003	:	
Attorney's Docket No.: 33817/US/2	:	UNDER 37 CFR 1.181
For: INHIBITION OF DNA MODULATION	:	
CAUSED BY MUTATED P53	:	

This application is before the Office of PCT Legal Administration for consideration of the papers filed on June 16, 2004, which are being treated as a petition under 37 CFR 1.181 to accord a filing date of April 22, 2003 to the application papers. The petition is **GRANTED.**

BACKGROUND

On 22 January 1999, applicant filed international application PCT/DE99/00221, which claimed priority of an earlier German application filed 26 January 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 July 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 August 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2000.

On July 25, 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and an English translation of the international application as required by 35 U.S.C. 371(c)(2). An oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed. Applicant filed a declaration as required by 35 U.S.C. 371(c)(4) on 04 October 2000. The application papers were assigned U.S. patent application number 09/600,981.

On April 22, 2003 applicants filed a continuation application of U.S. patent application 09/600,981. The application papers were placed in the parent application 09/600,981. At

some time during the spring of 2004, applicants filed copies of the papers filed on April 22, 2003. The undersigned remove from 09/600,981 the original continuation application papers filed April 22, 2003 and gave the original continuation application papers and the copies of the papers filed in the spring of 2004 to the Office of Initial Patent Examining with instructions to treat the papers as a U.S. patent application having a filing date of April 22, 2003 and as a continuation application of 09/600,981. Subsequently, the Office of Initial Patent Examining misplaced the papers and to date has not found them. Consequently, applicant on June 16, 2004 filed copies of the application papers filed on April 22, 2003. The attorney has stated, "On April 22, 2003, this Utility Patent Application was filed by Gray Cary Ware & Freidenrich of Washington, D.C. A true and correct copy of that application as filed is attached hereto as Exhibit 1." In view of all the evidence, applicant's request to have the papers assigned a filing date of April 22, 2003 is granted.

The Office of Initial Patent Examining is directed to treat the papers filed on June 16, 2004 as a U.S. application having a filing date of **April 22, 2003**.

Leonard Smith

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang W. Deppert	:	DECISION DISMISSING
Application No. 10/890,433	:	PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 33817/US/2	:	

This is a decision on the petition filed December 6, 2004 (certificate of mailing December 2, 2004), requesting that the above-identified application be accorded a filing date of April 22, 2003, with page 2 of the specification as part of the original disclosure.

On April 22, 2003, applicant filed the above-identified application. On October 4, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating, inter alia, that the application was accorded a filing date of April 22, 2003; however, it appeared that page 2 of the specification was omitted.

In response, on December 6, 2004 (certificate of mailing December 2, 2004), applicant submitted, inter alia, the present petition, a $130.00 petition fee, and a copy of page 2 of the specification. In the petition, applicant acknowledges that page 2 was inadvertently omitted from the application papers filed on April 22, 2003.

Upon review of the record, page 2 of the specification has not been located in the official file. It is noted that the transmittal identified this application as a continuation application of prior application No. 09/600,981, filed October 4, 2000, and specifically incorporated by reference the disclosure of the prior application.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (Emphasis supplied).

In view of the incorporation by reference of Application No. 09/600,981, page 2 of the specification is not new matter <u>if</u> it was part of the disclosure of Application No. 09/600,981.

Accordingly, the Notice mailed on October 4, 2004, was correct in stating that page 2 the specification appeared to have been omitted. Therefore, the requirement for the omitted page of specification was proper and will not be withdrawn.

Accordingly, the petition is <u>dismissed</u>.

The Office finance records indicate that applicant paid a $130.00 petition fee. Effective November 22, 2004, the fee for the present petition is $400.00. Accordingly, Deposit Account No. 50-2319 will be charged the difference in the amount of $270.00. The petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The preliminary amendment filed on December 6, 2004, will be treated as a request for entry of page 2 of the specification, which will be considered by the primary examiner. Accordingly, the matter will be referred to Technology Center Art Unit 1641.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alton, CA 94304-1050

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OFFICE OF PETITIONS

In re Application of :
Wolfgang Willi Deppert :
Application No. 10/890,433 : DECISION ON PETITION
Filed: April 22, 2003 : TO WITHDRAW
Attorney Docket No. 31304-762-831 : 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 17, 2006.

The request is **NOT APPROVED**.

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

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

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Dr. Wolfgang W. Deppert
Im Hain 14
Hamburg, Germany 22359

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BALA CYNWYD PA 19004

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
William J. Platt :
Application No. 10/890,436 : DECISION ON PETITION
Filed: 07/14/2004 :
Attorney Docket No. 0419 :

This is a decision on the petition under 37 CFR 1.181, filed on March 20, 2007, to withdraw the holding of abandonment.

On November 7, 2006, the Office mailed a Notice of Allowability, which set a three-month statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on March 12, 2007.

Petitioner asserts that the corrected drawings were hand-carried to the USPTO on January 3, 2007. In support of the assertion, petitioner submits a copy of a transmittal letter with a USPTO date-stamp, acknowledging receipt of corrected drawings in the USPTO on January 3, 2007. A copy of the previously submitted drawings accompanies the petition.

The Office has not located the original reply. Nevertheless, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." MPEP 503. Accordingly, it is concluded that the reply was filed timely in the USPTO on January 3, 2007, but was not matched with the application.

For the reasons stated above, the petition is **granted.** The holding of abandonment is hereby withdrawn and the application restored to pending status. The Office will accept the copy of the reply submitted with the petition on March 20, 2007, in place of the reply filed on January 3, 2007.

This matter is being referred to the Office of Patent Publications.

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 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

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Mailed: 8-30-07

In re application of	:	
Graff et al.	:	DECISION ON
Serial No. 10/890,437	:	PETITION
Filed: July 12, 2004	:	
For: Ultrabarrier Substrates	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed August 10, 2007, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the Terminal Disclaimer filed on August 1, 2007 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

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

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

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

10/890,437

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

Jacqueline M. Stone | lwe

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

Patricia L. Prior
DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
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SEP 05 2006

OFFICE OF PETITIONS

In re Patent No. 6,932,176 :

Issue Date: August 23, 2005 :

Application No. 10/890,454 : ON PETITION

Filed: July 14, 2004 :

Attorney Docket No. 119683

This is a decision on the petition filed November 15, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The fee for this request is $130.00. Petitioner was charged $400.00 for the petition fee. The amount of $270.00 will be refunded, in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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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Eunhee Park, Esq.
Baker & McKenzie
805 Third Avenue, 29th Floor
New York, NY 10022

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Bradford C. DAVIS
Application No. 10/890,471
Filed: July 12, 2004
For: EVENT PROCESSOR FOR JOB SCHEDULING AND MANAGEMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 23, 2004.

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

The request is **GRANTED**.

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

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

cc: Richard F. Jaworski, Esq.
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLACK & DECKER CORPORATION
701 E. JOPPA ROAD
TOWSON MD 21286

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Stones et al.	:	
Application No. 10/890,478	:	ON PETITION
Filed: July 13, 2004	:	
Attorney Docket No. P-US-GD-1095	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3724 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HAMILTON BROOK SMITH & REYNOLDS PC
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
PROCTOR, James A., Jr.	:	
Application No. 10/890,485	:	DECISION ON PETITION
Filed: July 13, 2004	:	TO WITHDRAW
Attorney Docket No. TAN-2-1488.06.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 28, 2006.

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

A review of the file record indicates that the power of attorney to HAILTON BROOK SMITH & REYNOLDS PC has been revoked by the assignee of the patent application on May 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 the undersigned at (571) 272-7253.

Mónica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG, P.C.**
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

SPE: K. Easthom

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/8/07

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/890,491 Patent No.: 7190152

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: _____

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

SPE

AU 2838
Art Unit

SPE: K. Easthom

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/8/07

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/890,491 Patent No.: 7190152

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: _____

KARL EASTHOM 6/13/7
SUPERVISORY PATENT EXAMINER
SPE

AU 2838
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURR & BROWN
PO BOX 7068
SYRACUSE NY 13261-7068

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:
Akio Enomoto et al.	: DECISION DISMISSING
Application No. 10/890,494	: PETITION
Filed: July 13, 2004	:
Attorney Docket No. 791_142CON	:

This is a decision on the petition filed November 16, 2004, requesting that the above-identified application be accorded a filing date of July 13, 2004, with drawing Figures 7a-7b as a part of the original disclosure and that the Notice of Omitted Items mailed September 17, 2004 be withdrawn.

The petition is **DISMISSED** as involving moot issues.

A review of Office PALM records indicates that the filing date currently accorded this application is July 13, 2004 and that an office communication withdrawing the Notice mailed September 17, 2004 was mailed January 5, 2005. In view thereof, no fees are due and none have been charged.

This matter is being referred to Technology Center 1746 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK, CA 94596-1607

Mail Date: 04/23/2010

Applicant	: Kenneth Coley	: DECISION ON REQUEST FOR
Patent Number	: 7607166	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,500	: 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 **1166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK, CA 94596-1607

Mail Date: 05/18/2010

Applicant : Kenneth Coley
Patent Number : 7607166
Issue Date : 10/20/2009
Application No : 10/890,500
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 **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Damon Domke et al
Application No. 10/890,509
Filed: July 13, 2004
Attorney Docket No. TI-34605

This is a decision on the petition filed July 14, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed April 7, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 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 payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Damon Domke	: DECISION ON REQUEST FOR
Patent Number	: 7593580	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,509	: 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 **1359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Jackson : DECISION ON PETITION
Application No. 10/890,519 :
Filed: July 14, 2004 :
Docket No.: N232 0001 :

This is a decision on the petition to revive under 37 CFR 1.181, filed June 15, 2006.

This application was held abandoned January 7, 2006 for failure to timely submit a proper reply to the non-final Office action mailed October 6, 2005. Notice of Abandonment was mailed June 5, 2006.

Petitioner asserts non-receipt of the non-final Office action mailed October 6, 2005.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had it been received along with a statement from petitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Technology Center 3600 for mailing of a new Office action. The time period for response will be set to run from the date the new Notice is mailed.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE MORRIS LLP - PRINCETON
PO BOX 5203
PRINCETON, NJ 08543-5203

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In re Application of	:	
HAUSHALTER, Robert C.	:	
Application No. 10/890,530	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. **35514-701.201**	:	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 11, 2008.

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

A review of the file record indicates that the power of attorney to Duane Morris LLP has been revoked by the assignee of the patent application on October 30, 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: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

wk

Mailed: 6-26-06

In re application of	:	
Wu et al.	:	
Serial No. 10/890,540	:	DECISION ON
Filed: July 12, 2004	:	PETITION
For: SANITARY FLUID COLLECTION,	:	
APPLICATION AND STORAGE DEVICE AND	:	
METHODS OF USE OF SAME		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, dated September 9, 2005.

On September 9, 2005, a final Office Action was mailed to Applicants. On January 9, 2006, the Applicant responded with arguments and on February 14, 2006 the Examiner mailed an Advisory Action.

DECISION

37 CFR § 1.181 Petition to the Director.

> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The instant petition was submitted by Petitioner on April 7, 2006 which falls more than **two** months after the date of the Final Office Action (September 9, 2005) thereby making the instant petition untimely under 37 CFR 1.181 (f).

The Petition is **DISMISSED**.

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

Richard San Pietro
AZURE Institute
4108 Sorrento Valley Blvd.
San Diego, California 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cozen & O'Conner
1900 Market Street
Philadelphia, PA 19103-3508

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APR 25 2007

OFFICE OF PETITIONS

In re Application of
Jones et al.
Application No. 10/890,549
Filed: July 13, 2004
Atty Docket:Aren71.US3.reg

: DECISION GRANTING PETITION

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER TO 37 CFR § 1.705(D)" timely[1] filed on December 13, 2006 requesting that the Office adjust the PTA from (66) days to a determination of 129 days at the time of issuance of the patent.

Applicants' application for PTA is **GRANTED.** The Office will make an adjustment to the PTA determination from a determination of 66 to a determination of 129 days. The Office will *sua sponte* issue a certificate of correction to reflect this decision.

Applicants request that the Office erred in asserting that the issue fee was not paid until May 2, 2006. Applicants assert that the actual date of submission of the issue fee was March 1, 2005. Accordingly, applicants assert that the 66 days provided to applicants for missing the requirement of 37 CFR 1.702(a)(4) is in error. Applicants do not assert any additional delays on part of the Office or concede any failures to engage in reasonable efforts to conclude prosecution of the application

Applicants arguments are persuasive. A review of the file reflects that applicants submitted the issue fee payment on March 1, 2006. The payment of the issue fee transmittal sheet properly identified that there was a change in entity status and authorized the Director to charge any fees to deposit account 50-1275. Applicant's procedure was in accordance with procedure outlined in MPEP 509.03 (500-53). Applicants checked the appropriate box on Part B of the PTOL-85 transmittal form to indicate there had been a change in status and that applicants were no longer claiming small entity status. Accordingly, the Office erred in determining that the issue fee was not properly paid until May 2, 2006. Accordingly, the Office should have provided applicants with 129 days for failing to meet the requirements of 37 CFR 1.702(a)(4) rather than the awarded amount of 66 days.[2]

---

[1]Issued on November 7, 2006.

[2]The reduction began on July 2, 2006 the day after the four month date of proper issue fee submission until November 7, 2006.

After the mailing of this decision, the Office will forward this the certificate of correction branch for a prompt issuance of a certificate of correction. No additional fees are required for this petition or the *sua sponte* issuance of a certificate of correction.

The Office has assessed the $200.00 fee associated with this application. No additional fees are required by applicant.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery A. Fries

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

Cc: Copy of adjusted PAIR calculation
DRAFT Certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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THEMIS INTELLECTUAL PROPERTY COUNSEL
7660 FAY AVENUE STE. H378
LA JOLLA CA 92037

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OFFICE OF PETITIONS

In re Application of :
David James Silva :
Application No. 10/890,550 :
Filed: July 13, 2004 :
Attorney Docket No. SIL 001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed August 7, 2006, to defer issuance of the patent for one month.

The petition is GRANTED.

Since the requested deferral period pursuant to MPEP 1306.01 has now passed, the application will be referred to Patent Publication.

Telephone inquiries 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
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LAW OFFICE OF STEVEN B. LEAVITT, LLP
ATTN: JOHN PEMBERTON
7405 BUCKSKIN COURT
FORT WORTH, TX 76137

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of :
Lori Burk :
Application No. 10/890,554 :
Filed: July 12, 2004 :
Attorney Docket No. HARR.00001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2006, to change the name of Inventor Lori Burk Harris to Lori Burk.

The petition is **GRANTED.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Law Office of Steven B. Leavitt, LLP
9914 Waterview Parkway
Rowlett, TX 75089

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 18 2009

Innovation Division
Cantor Fitzgerald, L.P.
110 East 59th Street (6th Floor)
New York, NY 10022

In re Application of:	:	
Howard W. Lutnick et al.	:	**DECISION ON PETITION**
Application No. 10/890,602	:	**FILED UNDER**
Filed: July 13, 2004	:	**37 CFR 1.181**
For: TRADING APPLICATION PROGRAM INTERFACE	:	

This is in response to the petition filed under 37 CFR 1.181(a)(1) and (3) received October 31, 2009. The petition is being treated, pursuant to 37 CFR 1.144, as a petition from the requirement for restriction.

The petition is **DISMISSED.**

A review of the application reveals that a restriction requirement was mailed August 5, 2008. A reply to the restriction requirement, including an amendment to the claims, was received on February 5, 2009. However, applicant failed to elect an invention for examination as required in the restriction requirement. Accordingly, a Notice of Non-Compliant Amendment was mailed May 26, 2009. A Notice of Abandonment was mailed June 23, 2009.

37 § 1.143 Reconsideration of requirement.

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 § CFR 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 § 1.181)

As indicated above, 37 CFR 1.144 provides applicant the avenue to petition a restriction requirement. However, in accordance with 37 CFR 1.143, applicant is required to first request reconsideration and provisionally elect an invention for examination. Since applicant has not provisionally elected an invention for examination nor requested reconsideration prior to the filing of the instant petition, the petition is dismissed as being premature.

It is noted that in the reply to restriction requirement received February 5, 2009, Petitioner states "[a]pplicant is unable to make an informed or binding election." The mere fact that applicant disagrees with the restriction requirement or deems that the restriction requirement is incomplete, does not dissolve applicant of the requirement to indicate a provisional election, as required by 37 CFR 1.143.

The non-compliant notice mailed May 26, 2009 states that "Applicant is given **one month**, or thirty days (30), 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 non-final amendment. **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 *Quyale* action." Since the non-compliant amendment received November 7, 2008 was a non-final amendment, extensions of time under 37 CFR 1.136(a) were available to the applicant. Thus, a response was not due until November 26, 2009 (with a five month extension of time). Therefore, the application was prematurely abandoned by the examiner on June 23, 2009. Accordingly, the Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

Upon review of the restriction requirement in making the decision to dismiss the instant petition, it is deemed that the restriction requirement was improper. In the restriction requirement, the examiner set forth inventions I-VIII, each directed to a trading system. The examiner indicated that "the inventions are distinct, each from another because each group is related as a subcombination with every other group disclosed as useable together in a single combination." Each of the groups of invention recite a first workstation, a second workstation and a programmed computer. In order for the inventions to be properly grouped as subcombinations useable together in a single combination, there must exist a trading system comprising four workstations (i.e., two first workstations and two second workstations) and two programmed computers. However, a review of the specification indicates that the invention is a single trading system, wherein the system comprises a first workstation, a second workstation and programmed computer coupled to the workstations. Although the computer may be programmed to perform different functions, the system comprises a single programmed

computer. Accordingly, inventions I-VIII are not restrictable as subcombinations useable together in a single combination and the restriction requirement is withdrawn. The application will be returned to the examiner to reopen prosecution for consideration of claims 1-102, as amended in the response received February 5, 2009.

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

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

In re Application of:	:	
BLOEBAUM, Leland Scott	:	
Application No.: 10/890,607	:	DECISION APPROVING
Filed: July 14, 2004	:	WITHDRAWAL OF ATTORNEY
Attorney Docket No.: 9314-78	:	

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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MAR 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Toledo and Warden	:	
Application No. 10/890,609	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 09797955-0030	:	

This is a decision on the petition under 37 CFR 1.182 to change the order of inventor names, filed March 25, 2005.

The petition is **granted**.

The order of the names of the inventors has been changed to the following:

1. George Toledo
2. Mark Warden

The application file is being directed to technology Center 3600, GAU 3676 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Rado et al.	:	
Application No. 10/890,611	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket Number:	:	
FAST-049	:	

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 September 26, 2005.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed June 7, 2005. The Notices set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on September 8, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

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JOHN F. SALAZAR
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LOUISVILLE KY 40202

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JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Tylicki et al.	:	
Application No. 10/890,620	:	ON PETITION
Filed: June 14, 2004	:	
Attorney Docket No. ZM466/04006	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 7, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2626 for expedited prosecution.

David Buschi
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Scott D. Slomiany	: DECISION ON REQUEST FOR
Patent Number	: 7601058	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,630	: 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 **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Hiroshi Takekawa	: DECISION ON REQUEST FOR
Patent Number	: 7600228	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,631	: 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 **716** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MEDTRONIC
Attn: Noreen Johnson - IP
Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

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MAR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,431,735	: DECISION ON REQUEST
Liu et al.	: FOR
Issue Date: October 7, 2008	: RECONSIDERATION OF
Application No. 10/890,640	: PATENT TERM ADJUSTMENT
Filed: July 14, 2004	:
Attorney Docket No. MSDI-	:
285/PC189.06	:
Title: Expandable Interbody	:
Fusion Cage	:

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 35 USC §154" filed December 15, 2008 (certificate of mailing December 7, 2008). Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred eleven (511) to nine hundred sixty-two (962) days.

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

On October 7, 2008, the above-identified application matured into U.S. Patent No. 7,431,735. The instant request for reconsideration was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 511 days. Patentees request

correction of the patent term adjustment to increase the patent term adjustment to 962 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

Patentees maintain that the patent term adjustment was not properly calculated. Referencing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), patentees submit that the time period beyond that allowed for a first Office action under §154(b)(1)(A) and the time period beyond the three-year period allowed for prosecution under §154(b)(1)(B) should be counted separately and then added together to determine the total patent term adjustment if delays under those sections do not occur on the same calendar day.

The period of reduction of 5 days for applicant delay is not in dispute.

Specifically, patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (451 days) and the period of other Examination Delay (516 days) to the extent that these periods of delay are not overlapping. Patentees maintain that as these periods do not occur on the same calendar day they do not overlap. As such, patentees assert entitlement to a patent term adjustment of 962 days (451 + 516 - 5).

The Office agrees that the patent issued 3 years and 451 days after its actual filing date. However, the Office contends that the entire period of 451 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent (516 days). Accordingly, no additional period of adjustment was entered for Office delay for Office issuance of the patent more than 3 years after the filing date of the application. The patent properly issued with a revised patent term adjustment of 511 days (516 - 11).

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the

actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlaps with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on July 14, 2007, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office until the issuance of the patent, July 14, 2004 to October 7, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 516 days, not 516 + 451 days. The Office took 14 months and 516 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 516 days of Office delay and the 5 days of applicant delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 451 days after its filing date. The Office did not delay 516 days and then an additional 451 days. Accordingly, 516 days of patent term adjustment (not 516 and 451 days) was properly entered since the period of delay of 451 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 516 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 516 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 451 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

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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).

Accordingly, at issuance, the patent issued with a revised patent term adjustment of 511 days (516 - 5 days).

In view thereof, the instant patent is not entitled to further adjustment.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paul V. Keller, Esq.
4585 Liberty Rd.
South Euclid, OH 44121

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AUG 15 2005

Director's Office
Group 3700

In re Application of
Hu et al.
Serial No. 10/890642
Filed: July 14, 2004

: DECISION ON PETITION
: TO MAKE SPECIAL

For: HYBRID CATALYST SYSTEM FOR EXHAUST EMISSIONS REDUCTION

Applicant's petition, filed May 6, 2005, seeks to have this application made special based upon the Environmental Quality Program.

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

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 8/12/05

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OFFICE OF PETITIONS

In re Application of	:	
Haoran Hu et al	:	
Application No. 10/890,642	:	DECISION GRANTING PETITION
Filed: July 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 04-MTC-124	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 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 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 August 7, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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Technology Center 2100

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

In re Application of: Kodama
Application No. 10/890,652
Filed: 13 July 2004

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

Mail Date: 04/20/2010

Applicant	: Sean Eric Babineau	: DECISION ON REQUEST FOR
Patent Number	: 7581211	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,665	: 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 **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 3600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 Calder Plaza Building
250 Monroe Ave, N.W.
Grand Rapids, MI 49503-2250

In re application of:
Charles R. Ruelke et al
Application No. 10/890,691 :
Filed: July 14, 2004 :
For: DYNAMICALLY MATCHED MIXER SYSTEM WITH IMPROVED IN-PHASE AND QUADRATURE (I/Q) BALANCE AND SECOND ORDER INTERCEPT POINT (IP2) PERFORMANCE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 17, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item B). While a reason may be provided by referencing a specific portion of 37 CFR 10.40, the reason must deal with actions by the client. In this case, there is nothing in the file record that indicates the existence of an assignee or that the assignee is the client. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

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

SNM/pav: 02/25/05

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OFFICE OF PETITIONS

In re Application of	:	
Liang Chen, William Downey and Richard Dobrowolski	:	
Application No. 10/890,693	:	DECISION REFUSING STATUS
Filed: July 14, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. A01669	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 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 on July 14, 2004, without an executed oath or declaration and naming Liang Chen, William Downey and Richard Dobrowolski as joint inventors.

Accordingly, on August 27, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on October 22, 2004, the instant petition was filed.

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

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

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

(3) the petition fee; and

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

Applicant lacks item (1), as set forth above.

As to item (1), applicant has not shown that the non-signing inventors have been presented with a copy of the application papers (specification, claims and drawings). Unless the non-signing inventors were presented with a copy of the application papers (specification, claims and drawings), the non-signing inventors could not attest that they have "reviewed and understand the application papers" and therefore could not sign the declaration which they were given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventors have refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventors, but that they did not respond to, or refused, the request that they sign the oath/declaration in order to show that the inventors have refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

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

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

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

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

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

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RESEARCH TRIANGLE PARK NC 27709-3398

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OFFICE OF PETITIONS

In re Application of	:
Michael Birsha Davies et al.	:
Application No. 10/890,700	: DECISION ON PETITION
Filed: July 14, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ID091US12	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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 3743 for appropriate action on the amendment filed January 23, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of
Bartholomaus et al.
Application No. 10/890,707
Filed: July 14, 2004
Attorney Docket No. 785-011870-US

Decision on Petition

This is a decision on the petition filed January 10, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that pages 29-32 of the specification were part of the originally filed application.

The petition is **granted**.

Facts:

The application was filed on July 14, 2004.

The transmittal sheet indicated the application was filed with 37 pages of specification, including claims and abstract. The Office returned a stamped postcard receipt verifying receipt of 32 pages of specification, 4 pages of claims, and 1 page of abstract. The file includes 32 pages of specification, 4 pages of claims, and 1 page of abstract which were received on July 14, 2004.

The original application was filed in German rather than English.

On September 10, 2004, a Notice was mailed stating that an English translation of the application needed to be filed.

On November 12, 2004, an English translation of the application was filed.

The English translation includes 31 pages of specification, 4 pages of claims, and 1 page of abstract. Pages 2-36 are numbered and no pages appear to be missing.

On December 8, 2004, a Notice was mailed stating pages 29-32 of the specification appeared to have been omitted from the application.

Petitioner promptly filed the instant petition on January 10, 2005, and alleges that pages 29-32 of the specification were in fact filed with the original application.

Analysis:

A review of the file fails to indicate any pages are missing. The file contains all the pages the petition alleges have been filed. Therefore, the petition is granted. A petition fee has not been charged to petitioner's deposit account.

The Notice mailed December 8, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will continue to prepare the application for examination using the papers in the file which include pages 29-32 of the specification.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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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	:	
Dhananjay Ashok GORE et al.	:	
Application No. 10/890,718	:	ON PETITION
Filed: July 13, 2004	:	
Attorney Docket No. 030535	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 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 17, 2004, which set a shortened 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 18, 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) and (3). Petitioner has submitted the late filing fee or oath or declaration surcharge of $130 set forth in 37 CFR 1.16(e); however,

petitioner has failed to submit (1) the required oath or declaration and (2) 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.

It is noted that PCT/US04/40429 claims is a continuation of the instant application. Is this application being revived for purposes of establishing copendency?

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 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

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5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dhananjay Ashok GORE et al. :
Application No. 10/890,718 :
Filed: July 13, 2004 :
Attorney Docket No. 030535 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 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 17, 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 18, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration; (2) the petition fee of $1500; 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 17, 2004 is accepted as having been unintentionally delayed.

Since the $1500 petition fee submitted with the renewed petition on October 13, 2005 was previously paid with the petition filed August 8, 2005, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Lee, et al :
Application No. 10/890,748 : DECISION
Filed: 14 July, 2004 :
Attorney Docket No. 58865US004 :

This is a decision on the petition filed on 7 November, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment.

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)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice of Defective Appeal Brief, mailed on 11 September, 2007, with reply due absent extension of time on or before 11 October, 2007.

The application went abandoned by operation of law after midnight 11 October, 2007.

The Office mailed the Notice of Abandonment on 7 October, 2008.

On 7 November, 2008, Petitioner filed a petition under 37 C.F.R. §1.181 averring, *inter alia*, timely filing, and supported the averment with copies of the dated ("08:38:52 Eastern Time on 11-OCT-2007") electronic Acknowledgement Receipt and the "Second Amended Brief on Appeal" (bearing a certificate of transmission of that date (37 C.F.R. §1.8(a)(1)(i)(C)) in the effort to comply with the guidance/requirements of the Commentary at MPEP §711.03(c)(I).

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]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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

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

[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.))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 7 October, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU (TC/AU) 3728 to await the Examiner's Answer 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.

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OFFICE OF PETITIONS

In re Application of	:	
Lynn KIRKPATRICK et al.	:	
Application No. 10/890,756	:	DECISION ON PETITION
Filed: 07/14/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **126387.01201**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not

comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

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

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

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

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

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEPPER HAMILTON, LLP
One Mellon Center
50th Floor
500 Grant Street
Pittsburgh, PA. 15219

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Lynn KIRKPATRICK et al	:	
Application No. 10/890,756	:	DECISION ON PETITION
Filed: July 14, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 126387.01201	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 19, 2009 and the Supplemental petition filed May 19, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. 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 1614 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.

Thurman K. Page
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
10/890,756	07/14/2004	1614	793	126387.01201	39	7

CONFIRMATION NO. 8155

CORRECTED FILING RECEIPT

Pepper Hamilton LLP
One Mellon Center
50th Floor
500 Grant Street
Pittsburgh, PA 15219

OC000000036116264

Date Mailed: 05/22/2009

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

Applicant(s)

Lynn Kirkpatrick, Tucson, AZ;
Garth Powis, Tucson, AZ;
Sarah J. Welsh, Oxford, UNITED KINGDOM;

Power of Attorney:

Raymond Miller--42891
James Singer--45111
John Ongman--48535
Joseph Melnik--48741
Alka Patel--49092
N. Endejann--50229
Kathleen Johnson--51852
John Pillion--52122
Carissa Howard--52278
Joseph Helmsen--54163

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/487,562 07/14/2003
and is a CIP of 10/288,888 11/06/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 09/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/890,756**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Regulation of HIF protein levels via deubiquitination pathway

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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H·A

Fenwick & West, LLP
Silicon Valley Center
801 California St.
Mountain View, CA 94041

SEP 2 0 2005

In re Application of:	:	
Steven W. Meeks	:	
Serial No.: 10/890,774	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: July 13, 2004	:	
Attorney Docket No.: **20830-09243**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 17, 2005.

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

The request meets all the above stated requirements. The request was signed by John T. McNells, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.
All future communications from the Office will be directed Caven & Aghevil, LLC, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Jed Caven
Caven & Aghevil, LLC
9249 S. Broadway Blvd., Unit 200-201
Highlands Ranch, CO 80129

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 05/12/2010

Applicant	: Paul M. Dadd	: DECISION ON REQUEST FOR
Patent Number	: 7661509	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/890,775	: 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 **1088** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Chek-Peng Foo	: DECISION ON REQUEST FOR
Patent Number	: 7625006	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/890,791	: 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 **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MYERS BIGEL SIBLEY SAJOVEC P.A.
PO BOX 37428
RALEIGH NC 27627

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of John McKenna Application No.10/890,798 Filed: July 13, 2004 Attorney Docket Number: END920040041US1/9407-28	: : : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on July 5, 2005, requesting that the above-identified application be accorded a filing date of July 13, 2004, rather than the presently accorded filing date of July 14, 2004.

Petitioner contends the application was deposited in Express Mail service on July 13, 2004. In support, petitioner supplied a copy of Express Mail receipt No. EU133644655US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The Express Mail Label shows a date-in of July 13, 2004. A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on July 13, 2004.

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

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **July 13, 2004** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

MARSH FISCHMANN & BREYFOGLE LLP
Suite 411
3151 South Vaughn Way
Aurora, CO 80014

In re Application of	:	
David Schneider, et al.	:	
Application No. 10/890,823	:	DECISION GRANTING PETITION
Filed: July 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 50135-00002	:	

This is a decision on the petition, filed August 4, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 17, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A projected publication date will be assigned and applicant will be notified of this date in a separate communication.

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

This application is being referred to Technology Center Art Unit 1641 for further prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Patent No. 7,491,826	:	
Morgan, et al.	:	DECISION DISMISSING
Application No. 10/890,829	:	REQUEST FOR
Issue Date: February 17, 2009	:	RECONSIDERATION OF
Filed: July 14, 2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No.10444.0090-01000	:	UNDER 37 CFR 1.705

This is in response to the DETERMINATION OF PATENT TERM ADJUSTMENT-POST GRANT, filed February 24, 2009, and in duplicate on March 12, 2009. The petition is properly treated under 37 CFR 1.705(d).

Patentees request that the determination of patent term adjustment be corrected from four hundred twenty-seven (427) days to seven hundred and three (703) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 427 days.

BACKGROUND

This application was filed on July 14, 2004. On April 15, 2008, a request for continued examination (RCE) was filed. On February 17, 2009, the application matured into U.S. Patent No. 7,491,826, with a revised patent term adjustment of 427 days. The Office determined that the 276 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 541 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and

[1] As of the filing of the RCE on April 15, 2008, the application was pending three years and 276 days.

37 CFR 1.702(a)(1)[2,3] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 541 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 114 days, the patent issued with a revised patent term adjustment of 427 (541 - 114) days.

On February 24, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 703 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Specifically, patentees state that:

> In view of the Federal District Court for the District of Columbia in Wyeth v. Dudas on September 30, 2008, patentees submit that they are entitled to a total patent term adjustment of 703 days, which is the sum of 2476 days of patent term adjustment due to exceeding the three year pendency and 427 days due to USPTO delay in prosecution. There is no overlap between the patent term adjustment due to exceeding the three year pendency and the patent term adjustment due to USPTO delays in prosecution.

Determination of Patent term Adjustment-Post Grant, filed February 24, 2009, p. 2

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[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A restriction requirement was not mailed until March 9, 2007, fourteen months and 541 days after the application filing date of July 14, 2004.

OPINION

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

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 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

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

§ 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), July 14, 2004, and ending on the date of filing of a request for continued examination (RCE), April 15, 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), 541 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the

request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 276 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 276 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 541 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 541 days and the 276 days is neither permitted nor warranted. 541 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 427 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/890,843	07/13/2004	Jeffrey D. Jordan	LAR 16475-1	2197

23351 7590 03/27/2008
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON, VA 23681-2199

EXAMINER
RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
2856	

MAIL DATE	DELIVERY MODE
03/27/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. JORDAN ET AL.	:	
Issue Date: March 27, 2007	:	**DECISION GRANTING**
Appl No.: 10/890,843	:	**PETITION**
Filed: July 13, 2004	:	*37 CFR 1.324*
For: CARBON NANOTUBE-BASED SENSOR AND METHOD FOR CONTINUALLY SENSING CHANGES IN A STRUCTURE	:	

This is a decision on the petition filed December 12, 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Hezron E. Williams

Hezron E. Williams
Supervisory Patent Examiner
Art Unit 2856
Technology Center 2800

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON, VA 23681-2199

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 26, 2008
TO: Certificates of Correction Branch
FROM: Hezron E. Williams
SPE, Art Unit 2856
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Certificate
MAR 2 7 2008
of Correction

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,194,912 as specified on the attached Certificate.

Hezron E. Williams

Hezron E. Williams, SPE
Art Unit 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,194,912
Patented: March 27, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jeffrey D. Jordan; Anthony N. Watkins; Donald M. Oglesby; JoAnne L. Ingram; Russell A. Wincheski; Phillip A. Williams; Jan M. Smits.

Hezron E. Williams

Hezron E. Williams
Supervisory Patent Examiner
Art Unit 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Michael K. Carrier
Eastman Chemical Company
P.O. Box 511
Kingsport TN 37662-5075

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

In re Application of
Kevin Alan Williams et al.
Application No. 10/890,861
Filing Date: July 14, 2004
Attorney Docket No.: 71402 US03
Title: UV-CURABLE, NON-CHLORINATED ADHESION PROMOTERS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(3).

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

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

This application is being forwarded to Technology Center Art Unit 1711 for appropriate action on the amendment filed April 19, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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 Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKE BILLIG & CZAJA, PLLC
ATTN: CHRISTOPHER MCLAUGHLIN
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Patrick Simpkins	: DECISION ON REQUEST FOR
Patent Number	: 7589783	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,862	: 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 **1249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,414,612	: DECISION ON APPLICATION FOR
Issued: August 19, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/890,864	:
Filed: July 14, 2004	:
Dkt. No.: 9281-4881	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT," filed October 20, 2008. This matter is being properly treated as an application for patent term adjustment in accordance with 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,414,612 on August 19, 2008. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 644 days. Patentees argue that the patent is entitled to an adjustment of 1,046 days, which includes an additional 402 days pursuant to 37 CFR 1.703(b).

At the time of issuance, the patent was entitled to 644 days of adjustment, as reflected on the patent.

Patentee argues that the patent is entitled to an additional adjustment of 402 days in accordance with 37 CFR 1.703(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

Patentee's arguments have been carefully considered, but are not convincing.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(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 application that 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, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule,* 69 Red. Reg. 21704 (April 22, 2004).

In view thereof, the instant patent is not entitled to further adjustment.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The required patent term adjustment application fee of $200.00 has been charged to patentee's deposit account, as authorized.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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FEB 2 2 2005

Director's Office
Group 3700

John S. Beulick
c/o Armstrong Teasdale, LLP
One Metropolitan Square, Suite 2600
St. Louis, Mo 63102-2740

In re Application of
Michael J. Sanchez et al
Serial No. : 10/890,872
Filed : July 14, 2004
For : Methods and Apparatus for Battery Powered Hand-Held Sprayer With Remote Spray Gun Assembly

: DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under C.F.R. § 1.102(d) filed August 23, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

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

The petition filed August 23, 2004 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

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DICKE, BILLIG & CZAJA, P.L.L.C.
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Jakobs et al.	:	
Application No. 10/890,934	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. I433.108.101/13224	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 2550
SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
LEONG, Vong Vui	:	
Application No. 10/890,935	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. **3176-6480US**	:	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 17, 2007.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed August 8, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VONG VUI LEONG**
2650 N. TENAYA WAY, SUITE 260
LAS VEGAS, NV 89128

cc: **VUI HENG VONG**
924 ALPINE WAY
P.O. BOX 454
ELKFORD, BRISTISH COLUMBIA VOB IHO

IFW

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SALT LAKE CITY UT 84110

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OFFICE OF PETITIONS

In re Application of
LEONG, Vong Vui
Application No. 10/890,935
Filed: July 14, 2004
Attorney Docket No. **3176-6480US**

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 17, 2007.

The request is **APPROVED**.

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

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Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VONG VUI LEONG**
2650 N. TENAYA WAY, SUITE 260
LAS VEGAS, NV 89128

cc: **VUI HENG VONG**
924 ALPINE WAY
P.O. BOX 454
ELKFORD, BRISTISH COLUMBIA VOB IHO

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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
10/890,936	07/13/2004	1616	385	82871-000100US	2	17	1

CONFIRMATION NO. 7491

CORRECTED FILING RECEIPT

OC000000014117159

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/18/2004

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

Applicant(s)

Jeffrey Gabbay, Jerusalem, ISRAEL;

Assignment For Published Patent Application

The Cupron Corporation, New York City, NY

Power of Attorney:

William M. Smith--30223
Joe Liebeschuetz--37505
Rosemarie Celli--42397
Hugh Wang--47163

Domestic Priority data as claimed by applicant

This application is a CIP of 10/240,993 12/16/2002
which is a 371 of PCT/IL01/00299 04/01/2001

Foreign Applications

ISRAEL 135,487 04/05/2000

If Required, Foreign Filing License Granted: 08/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/890,936

Projected Publication Date: 12/09/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Antimicrobial and antiviral polymeric materials and a process for preparing the same

Preliminary Class

424

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACKSON WALKER L.L.P.
SUITE 2100
112 E. PACAN STREET
SAN ANTONIO TX 78205

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of
Kenneth W. Busch et al
Application No. 10/890,942
Filed: July 14, 2004
Attorney Docket No. P-208614.14(cont)

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

All the above requirements having been satisfied, the late claim for benefit of priority 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 this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 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 application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2884 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/890,942	07/14/2004	2884	622	P-208614.14(cont)	28	2

CONFIRMATION NO. 8977

CORRECTED FILING RECEIPT

OC000000025775427

JACKSON WALKER L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

Date Mailed: 09/11/2007

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)

Kenneth W. Busch, Waco, TX;
Dennis H. Rabbe, Waco, TX;

Power of Attorney:

Mark Miller--29197
Thomas Sisson--29348
Daniel Hodgins--31026
Daniel Chapman--32726
William Nash--33743
Cline White--45213
Richard Ruble--45720

Domestic Priority data as claimed by applicant

This application is a CON of 10/093,584 03/08/2002 PAT 6,774,368
which claims benefit of 60/274,300 03/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/890,942

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Dispersive near-infrared spectrometer with automatic wavelength calibration

Preliminary Class

250

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Andrew James Williams	: DECISION ON REQUEST FOR
Patent Number	: 7605234	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/890,945	: 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 **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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/20/10

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10890945 Patent No.: 7605234

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: _____

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE

1646
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No. _____

DATE : 11/12/09

TO SPE OF : ART UNIT **2612 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/890,976 Patent No.: 7,501,953
Attn: Jennifer Mehmood

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)
2900 Randolph Square
Palm Location 7580

* ok for dependency changes in claims in cofc request?

Grant O. White, LIE
Certificates of Correction Branch
(703) 756-1590

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: _____

_____

_____

_____

_____ 2612
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/12/09

TO SPE OF : ART UNIT **2612 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/890,976** Patent No.: **7,501,953**

Attn: Jennifer Mehmood

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)
2900 Randolph Square
Palm Location 7580

*** ok for dependency changes in claims in cofc request?**

Ernest C. White, LIE
Certificates of Correction Branch
(703) 756-1590

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: _____

/Benjamin C. Lee/ — **SPE**

SPE 2612 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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TURK IP LAW, LLC
1770 HIGHLANDS VIEW
SMYRNA GA 30082

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MAR 1 1 2010

In re Patent No. 7,501,953	:	
Issue Date: 10 March, 2009	:	
Application No. 10/890,976	:	ON PETITION
Filed: 13 July 2004	:	
Attorney Docket No. 5088.0201USI1/IMPJ-0095	:	

This is a decision on the petition filed on 15 June, 2009, treated as a request under 37 C.F.R. §3.81(b)[1] and §1.323 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 **GRANTED**.

Petitioner requests issuance of a certificate of correction to add the name of "IMPINJ INC."

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent.

Patent and Trademark Office assignment records disclose that an assignment to IMPINJ INC.. was recorded on 13 July, 2004, at Reel/Frame 015585/0172. Thereafter the patent issued, as indicated above, on 10 March, 2009. (*See*, generally in this regard: MPEP §307.)

It is noted that Office Rules of Practice and the guidance in the Commentary require that Petitioner provide the recordation data with/in the petition and this Petitioner failed to do.

Petitioner states that the correct assignee's name is IMPINJ INC., and that the correct assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Nonetheless, that information was not printed on the face of the patent.

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

Accordingly, Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in .§1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

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

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.

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

---

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

Patent No. 7,501,953
Application No. 10/890,976

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[3]) 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).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SHERMAN & ASSOCIATES
415 NORTH ALFRED STREET
ALEXANDRIA, VA 22314

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew V. Linial et al	:	DECISION ON PETITION
Application No. 10/891,001	:	TO MAKE SPECIAL UNDER
Filed: July 15, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. AL-100	:	

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

The petition is **GRANTED**.

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

The petition includes copies of drivers' licenses. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3732 for action on the merits commensurate with this decision.

Denise Pothier
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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Satoru Ito	: DECISION ON REQUEST FOR
Patent Number	: 7583246	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **920** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

TO SPE OF : ART UNIT

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

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.

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

Comments:

Glenn

Supervisor GLENN A. CALDARULA
PRIMARY EXAMINER
GROUP 1100
TC1700

1764

SPE: Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/27/07

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/891069** Patent No.: **7156980**

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.

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: _____

Glenn Caldarola
Supervisory Patent Examiner
Technology Center 1700

_____ **SPE**

1764 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 2006

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth St.
Suite 1800
Arlington, VA 22209-3873

JUN 19 2006

In re Application of: MASAHIRO SONE Serial No.: 10/891,075 Filed: 15 July 2004 Docket: 843.44054X00 Title: DISK ARRAY DEVICE	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on April 15th, 2005 to make the above-identified application special for accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that 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, that applicant will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a pre-examination search was made in US Class/Subclasses 320/107 and 361/600, 679,683,687&688; d) copies of each reference deemed to be the most closely-related references uncovered in the pre-examination search; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) 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, that applicant will make an election without traverse as a prerequisite to the grant of special status; 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 requirements of MPEP § 708.02(VIII)(a), (b) and (d) are considered to have been met. However, the petition fails to meet the requirements of MPEP § 708.02(VIII)(c) and (e).

Regarding the search requirements of MPEP § 708.02(VIII)(c), applicant states that a search was performed in US Class/Subclass 320/107 and 361/600, 679, 683, 687& 688. Applicant further states: "Also a key word search was performed on the USPTO full-text database including published U.S. patent applications." However, the keywords used in the search were not provided; therefore, it is not possible to determine if a proper search had been performed. Thus, the petition does not meet the requirement of MPEP § 708.02(VIII)(c).

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Petitioner does not specifically point out how the language of claims 1 and 6 distinguishes over each of the cited references. For example, in the section "Detailed Discussion of the Invention and References", petitioner alleges that Nolan et al. (US 6,446,141 B1) "appears to fail to either anticipate or render obvious at least...a nickel hydrogen battery backup source that is disposed at a lower portion of a case body." However, claims 1 and 6 specifically recite: "[A] battery mounting unit that mounts a nickel hydrogen battery for supplying a backup power source..." and "said nickel hydrogen battery in said battery mounting unit..." Thus, it is not clear if petitioner's statement that Nolan does not teach "a nickel hydrogen battery backup source" means that a "nickel hydrogen battery" is not taught, or that the function of the nickel hydrogen battery "for supplying a backup power source" is not taught. In order for the petition to be granted, the Office will not make assumptions as to the intent of the statements. Petitioner's reliance on paraphrases of the language of claims 1 and 6 instead of their exact language does not meet the requirement to specifically point out how the language of the claims patentably distinguishes from the prior art. Furthermore, in the section "Distinctions Between the References and the Claims" petitioner underlines specific claim language alleged to distinguish over the references, but the language is not compared with each individual reference. Rather, a general statement that none of the references alone or in combination discloses or suggests the emphasized limitations is made. For these reasons, therefore, the petition fails to meet the requirement of MPEP § 708.02(VIII)(e).

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

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

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include: a) the key words used in the search; and b) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claim language distinguishes over the references.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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4747 HARRISON AVENUE
P.O. BOX 7002
ROCKFORD IL 61125-7002

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OFFICE OF PETITIONS

In re Application of	:
Scott M. Thomson et al.	:
Application No. 10/891,092	: DECISION GRANTING PETITION
Filed: July 14, 2005	:
Attorney Docket No. B05780-AT1	:

This is a decision on the petition filed May 19, 2006 to correct filing date, reqesting that the above-identified application be accorded a filing date of July 14, 2005 rather than the presently accorded filing date of July 15, 2005. The petition is treated under 37 CFR 1.10(d).

Petitioner alleges that the application was deposited in Express Mail service on July 14, 2005. Although petitioners have not submitted a copy of the Express Mail customer label, they have provided a copy of a the tracking report printed from the USPS Internet Track & Confirm and database which shows that a mailing bearing Express Mail Label No. EO904333595US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) was "accepted" on July 14, 2005.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is July 14, 2005 and thus is entitled to a filing date of July 14, 2005.

The petition is GRANTED. No petition fee is due and none has been charged.

This matter is being referred to the Office of Initial Patent Examination for a correction of the filing date to July 14, 2005, not July 15, 2005, and for the mailing of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAIL

SEP 2 6 2007
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of MASAYOSHI YOSHIDA ET AL Application No. 10/891123 Filed: July 15, 2004 Attorney Docket No. 8048-1047	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY 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 September 7, 2006, 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Masayoshi Yoshida	: DECISION ON REQUEST FOR
Patent Number	: 7599258	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SCHEIN & CAI LLP
111 W. ST. JOHN ST.
SUITE 1250
SAN JOSE CA 95113

In re Application of :
Jeou-Kai Lin :
Application No. 10/891,164 : ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. LIN003 :

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

The petition under 37 CFR 1.137(a) is **DISMISSED**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed April 21, 2008, which set a shortened statutory period for reply of three months from its mailing date. A response was filed on July 21, 2008. By an Advisory Action mailed July 29, 2008, petitioner was informed that the response of July 21, 2008, did not place the application in condition for allowance. The application became abandoned on July 22, 2008. A Notice of Abandonment was mailed December 17, 2009.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). Petitioner states that a proper response was not filed because the Advisory Action was not received

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The failure to receive the Advisory Action has no bearing on the whether the delay in filing a timely and proper response to the final Office action was unavoidable. While examiners are encouraged to provide applicant with a timely Advisory Action after a response to a final Office action is filed, the mailing of an Advisory Action is not a requirement and the failure applicant to receive the same cannot serve as a basis of unavoidable delay. Applicant is charged with filing a proper response to the final Office action within the maximum statutory period set for reply—a period that is not extended or reset by the mailing of Advisory Action. 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 abandonment of application cannot be said to be unavoidable under the circumstances presented. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small 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

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different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SCHEIN & CAI LLP
111 W. ST. JOHN ST.
SUITE 1250
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of
Jeou-Kai Lin
Application No. 10/891,164
Filed: July 14, 2004
Attorney Docket No. LIN003

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed April 21, 2008, which set a shortened statutory period for reply of three months from its mailing date. A response was filed on July 21, 2008. By an Advisory Action mailed July 29, 2008, petitioner was informed that the response of July 21, 2008, did not place the application in condition for allowance. The application became abandoned on July 22, 2008. A Notice of Abandonment was mailed December 17, 2009

The Request for Continued Examination filed January 5, 2009, is noted.

The application file is being forwarded to Technology Center 2400, GAU 2434 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEAVERTON, OR 97006-7099

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OFFICE OF PETITIONS

In re Application of :
Gary L. Brown et al :
Application No. 10/891,165 : DECISION ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. STXR002 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 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 November 20, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2006. Accordingly, the date of abandonment of this application is November 21, 2006. A Notice of Abandonment was mailed on December 13, 2006.

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

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

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Richard C. Calderwood
2775 NW 126th Avenue
Portland, OR 97229

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BEAVERTON, OR 97006-7099

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OFFICE OF PETITIONS

In re Application of :
Gary L. Brown et al :
Application No. 10/891,165 :
Filed: July 14, 2004 :
Attorney Docket No. STXR002 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 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 November 20, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2006. Accordingly, the date of abandonment of this application is November 21, 2006. A Notice of Abandonment was mailed on December 13, 2006.

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

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

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Richard C. Calderwood
2775 NW 126th Avenue
Portland, OR 97229

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Antonio Sergio Moutinho	: DECISION ON REQUEST FOR
Patent Number	: 7611654	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,213	: 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 **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

In re Application of :
Norihide Kinugasa, et al. :
Application No. 10/891,230 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No.: 69773-014 :

This is a decision on the petition, filed September 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 July 25, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2816 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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McDermott Will & Emery LLP
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KENNETH L. CAGE, ESQ.
MCDERMOTT, WILL & EMERY
600 THIRTEENTH STREET, N. W.
WASHINGTON, DC 20005-3096

In re Application of :
Norihide Kinugasa, et al. :
Application No. 10/891,230 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No.: 69773-014 :

This is a decision on the petition, filed September 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 July 25, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ANTHONY EDW. J CAMPBELL
PO BOX 160370
AUSTIN TX 78716

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Zirker, Daniel R.	:	
Application No. 10/891,245	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. STU1002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the $755.00 issue fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

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.1

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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United States Patent and Trademark Office
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AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

Mail Date: 04/20/2010

Applicant	: Hajime Matsuzaki	: DECISION ON REQUEST FOR
Patent Number	: 7629164	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,260	: 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 **1068** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PAUL J. FORDENBACHER
SILICON FOREST PATENT GROUP
11876 NW TYLER CT.
PORTLAND OR 97229

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Lawrence Andrew Hoffman
Application No. 10/891,307
Filed: July 12, 2004
Title: Power Drives

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 23, 2006. An amendment was filed on September 25, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on December 6, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on January 7, 2007. A Notice of Abandonment was mailed on March 30, 2007.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being referred to Art Unit 3634 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RUSS F. MARSDEN
BALLY SYSTEMS
950 SANDHILL RD
RENO, NV 89521

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Luciano, et al. :
Application No. 10/891,312 :
Filed: July 13, 2004 :
Attorney Docket No. SYS-01-002-DIV.1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 31, 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 1, 2004. A Notice of Abandonment was mailed on May 23, 2005.

Please note, 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.

Furthermore, 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.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

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

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

cc.
RUSS F. MARSDEN
ALLIANCE GAMING CORP.
6601 S. BERMUDA RD.
LAS VEGAS, NV 98119

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCNEES WALLACE & NURICK, LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of	:	
LITWIN, et al.	:	
Application No. 10/891,314	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. **21797-0009**	:	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 25, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MCNEES WALLACE & NURICK, LLC** has been revoked by the assignee of the patent application on February 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CARLSON GASKEY & OLDS/PRATT & WHITNEY**
400 WEST MAPLE ROAD, SUITE 350
BIRMINGHAM, MI 48009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 18 2005

Serial No. 10/891,315
Filed: July 14, 2004
Inventors: Brian P. Frawley et al
Title: FISHING LURE HAVING SNAP-ON COVER
Examiner: Darren W. Ark
Art Unit: 3643
File No.: 601-01

APPROVED
SEP 21 2005

REQUEST FOR WITHDRAWAL OF ATTORNEY
AND CHANGE OF CORRESPONDENCE ADDRESS

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

Dear Sir:

Please withdraw me as attorney in the above-identified application. I am the only attorney of record in this application.

The reason for this request is the failure of the applicants to pay my statement for services in a reasonable time. Also, applicants have informed me that they will not pay my bill.

All correspondence between the Office and me has been sent to the applicants.

I have informed applicants of the deadline for response to the outstanding Official Action, both by email and by certified mail.

Please change the correspondence address for this application to:

Mark A. Frawley
1029 Primrose Lane
Coopersburg, Pennsylvania 18036
Telephone: 610-967-3951
Email: mfrawley@erols.com

PAGE 1/2 * RCVD AT 8/18/2005 4:42:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/39 * DNIS:2738300 * CSID:12158854603 * DURATION (mm-ss):01-16

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Respectfully submitted,

William H. Eilberg

William H. Eilberg, Esq.
Registration No. 28,009
Three Bala Plaza
Suite 501 West
Bala Cynwyd, PA 19004
215-885-4600

Attorney for Applicants

CERTIFICATE OF TRANSMISSION

I hereby certify that the attached document entitled REQUEST FOR WITHDRAWAL OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS, in the above-identified application, is being transmitted by facsimile to telephone number 571-273-8300, on August 18, 2005.

William H. Eilberg

William H. Eilberg

PAGE 2/2 * RCVD AT 8/18/2005 4:42:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/39 * DNIS:2738300 * CSID:12158854603 * DURATION (mm-ss):01-16

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Isis Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008

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MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark W. Eshoo	:	
Application No. 10/891,337	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2005.

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

A review of the file record indicates that the power of attorney to Paul K. Legaard and all attorneys/agents of record have been revoked by the assignee of the patent application on January 3, 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: Casimir Jones, S.C.
440 Science Drive
Suite 203
Madison, WI 53711

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Bradley M. Knepper
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver CO 80202-5141

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of Andrew Flockhart, Larry Roybal and Robert Steiner Application No.10/891,346 Filed: July 13, 2004 Attorney Docket No. 4366-107 Title of Invention: METHOD AND APPARATUS FOR SUPPORTING INDIVIDUALIZED SELECTION RULES FOR RESOURCE ALLOCATION	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a) filed July 13, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The declaration of Facts attest a copy of the application was sent to non-signing inventor's last known address. Petitioner has provided evidence that non-signing inventor Roybal through his legal representative has refused to execute the application papers.

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

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Larry Roybal
11642 Quivas Way
Westminister, CO 80234

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of
Andrew Flockhart, Larry Roybal and Robert Steiner
Application No.10/891,346
Filed: July 13, 2004
Attorney Docket No. 4366-107
Title of Invention: METHOD AND APPARATUS FOR SUPPORTING INDIVIDUALIZED SELECTION RULES FOR RESOURCE ALLOCATION

LETTER

Dear Mr. Roybal:

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, 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 Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Bradley M. Knepper
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver CO 80202-5141

cc: Marc T. Wuthrich , Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

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13194 EDGEWATER LANE NORTHEAST
SEATTLE, WA 98125

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Erik S. Jeng et al	:	
Application No. 10/891,373	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 040-306	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed September 23, 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 24, 2004.

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

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MEHRMAN LAW OFFICE, P.C.
ONE PREMIER PLAZA
5605 GLENRIDGE DRIVE, STE. 795
ATLANTA, GA 30342

In re application of David Lauderbaugh Application No. 10/891,374 Filed: July 14, 2004 For: THREADED INSERT WITH MULTI-LOBE BROACH	: : : : : :	DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 8, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "the client is assuming direct responsibility", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/dew: 4/27/05

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OCT 6 2004

In re Application of CAVENY et al. Serial Number: 10/891,384 Filed: July 14, 2004 For: COMPOSITIONS COMPRISING SET RETARDER COMPOSITIONS AND ASSOCIATED METHODS	: : : : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed July 14, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

R Crispino

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

Craig W. Roddy
Halliburton Energy Services
PO Box 1431
Duncan, OK 73536-0440

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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JUL 22 2008

In re Application of	:	
Clyde Shiigi	:	
Application No. 10/891,389	:	ON PETITION
Filed: July 12, 2004	:	
Attorney Docket No. 045988-007300	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed February 5, 2007. A Notice of Abandonment was mailed on September 17, 2007.

The Power of Attorney filed on October 12, 2007 was improperly accepted by the Office. In this regard, the Statement under 37 CFR 3.73(b), which accompanied the power of attorney, fails to contain the reel and frame number of the documentary evidence of the chain of title from the original owners to the current assignee. Therefore, in order to perfect the power of attorney filed on October 12, 2007, full compliance with 37 CFR 3.73(b) must be satisfied.

On the other hand, 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 Marc S. Kaufman 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 a Notice of Appeal with the $510 fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, 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.

Additionally, the Office acknowledges receipt of $1,050 for a three months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,050 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 2154, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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NOV 19 2004

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NOV 19 2004

OFFICE OF THE DIRECTOR
TC 3600

James T. Robinson
Exclusivity-Law, Inc.
222 East Main Street
Norman, OK 73069-1303

In re application of
William Bruce Keller
Application No. 10/891,398
Filed: July 14, 2004
For: PICKUP BED COVER

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed July 14, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

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

Applicant states that "Applicant's pickup bed cover, like other pickup bed covers in the prior art, contributes to energy conservation and improved fuel economy by reducing drag exerted by an empty pickup bed and the tailgate integral therewith."

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

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

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

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

snm/snm: 11/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Eduardo Pretell et al.
Application No. 10/891,405
Filed: July 14, 2004
Attorney Docket No. GLM-1080 CIP

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

This is in response to the petition filed December 10, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 14, 2004, naming Eduardo Pretell, David Bruggeman and Yunlong Xue as joint inventors but without a signed declaration. Accordingly, on September 10, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration executed by joint inventors Pretell and Xue and a one month extension of time request was filed. The petition argues that joint inventor Bruggeman cannot be reached to execute the declaration.

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

A statement made by Karen Houk, employed by the assignee, indicates that a package including the application was sent to Mr. Bruggeman and that a phone call to the last known telephone number for Mr. Bruggeman revealed that it had been disconnected. Further, Ms. Houk advises that a message sent via email was also unanswered.

The evidence presented is not sufficient to show that Mr. Bruggeman cannot be located, since no proof of diligent efforts outside of one telephone call, one email message and one letter to the last known address has been presented. Rather, the evidence presented is more in line with an argument that the non-signing inventor refuses to cooperate with the filing of the application, since it has been shown that the

application papers were sent to the last known address. The applicant does not indicate that the correspondence mailed to the last known address was undeliverable. It can be assumed therefore that it was received and thus that Mr. Bruggeman has had an opportunity to review the application as filed and has chosen not to respond to the request. In accepting this petition, the Office is construing the remarks made by counsel as a declaration that the above scenario is the case. Petitioners **must** notify the Office if this is an incorrect interpretation.

The above-identified application and papers have therefore been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

The application is being forwarded to Technology Center 3623 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
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DAVID BRUGGEMAN
7584 NORTHLAND PLACE
SAN RAMON, CA 94583

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of
Eduardo Pretell et.al.
Application No. 10/891,405
Filed: July 14, 2004
For: DEBT MANAGEMENT SYSTEM

Dear Mr. Bruggeman:

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:
LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

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

Paper No.

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Wayne A. Johnson et al.	:	
Application No. 10/891,410	:	DECISION ON PETITION
Filed: July 14, 2004	:	PURSUANT TO
Attorney Docket Number: 7657	:	37 C.F.R. § 1.137(B)
Title: FINANCIAL ACCOUNT UP-	:	
FRONT INCENTIVES MANAGEMENT	:	
SYSTEM AND METHOD	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 25, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 4, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 5, 2007. A notice of abandonment was mailed on November 26, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted, *inter alia*, an amendment, the petition fee, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

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 submitted concurrently with this petition can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. 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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/28/06

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/891413** Patent No.: **7006359**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

KAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2841
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

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MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of

FARAGALLA, Yousry B.
Application No. 10/891,427
Filed: July 15, 2004
Attorney Docket No. **3472-CIP-Z**

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 19, 2008.

The request is **APPROVED**.

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

The request was signed by Jim Zegeer, the sole attorney of record has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Yousry Faragalla at the address indicated below.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **YOUSRY B. FARAGALLA**
FMD, LLC
P. O. BOX 1500
LORTON, VA 22199

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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON, DC 20036-2402

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JUN 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
HARTMANN, Mark H.	:	
Application No. 10/891,428	:	DECISION ON PETITION
Filed: July 13, 2004	:	TO WITHDRAW
Attorney Docket No. **OUTT.011.02US**	:	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 09, 2007.

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

A review of the file record indicates that the power of attorney to COOLEY GODWARD KRONISH LLP has been revoked by the assignee of the patent application on April 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CRAIG A. NEUGEBOREN**
NEUGEBOREN LAW FIRM, LLC
1035 PEARL STREET, STE. 311
BOULDER, CO 80302

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDEBURY ROAD, P.O. BOX 368
RIDGEFIELD CT 06877-0368

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of Gert Wensvoort et al Application No. 10/891,444 Filed: July 14, 2004 Attorney Docket No. 2183-2643.5US	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of August 15, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1648.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PITTS AND BRITTIAN PC
P. O. BOX 51295
KNOXVILLE, TN 37950-1295

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Richard S. Bruce et al :
Application No. 10/891,465 : DECISION ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. 29419.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 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 8, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 8, 2006. Accordingly, the date of abandonment of this application is August 9, 2006. A Notice of Abandonment was mailed on September 14, 2006, subsequent to the filing of the present petition to revive.

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

In accordance with the statement appearing on the Part B - Fee(s) Transmittal Form, small entity status has been accorded this application.

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

Mail Date: 04/21/2010

Applicant	: Philip Bush	: DECISION ON REQUEST FOR
Patent Number	: 7645490	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **864** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/20/07

Paper No.: _____

TO SPE OF : **Technology Center** 2621

10/891508

SUBJECT : Request for Certificate of Correction on Patent No.: 7206504 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

THAO Q. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2621

Art Unit

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AUG 23 2005

Technology Center 2100

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

In re Application of: Yagawa
Application No. 10/891,511
Filed: 15 July 2004

For: METHOD AND APPARATUS OF HIERARCHICAL STORAGE MANAGEMENT BASED ON DATA VALUE

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

This is a decision on the petition filed 17 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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Christian Gunther	: DECISION ON REQUEST FOR
Patent Number	: 7599903	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,521	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KURT C. OLSEN
SANDIA LABS - MAIL STOP 9031
P O BOX 969
LIVERMORE, CA 94551-0969

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Brian J. Kirby
Application No. 10/891,527
Filed: July 14, 2004
Attorney Docket No. SD-8398.2 DIV

ON PETITION

This is a decision in response to the petition, filed May 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 July 18, 2007. A Notice of Abandonment was mailed on April 4, 2008. May 9, 2008, the present petition was filed.

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

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received May 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Sep-06

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

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OFFICE OF PETITIONS

In re Patent No. 7,012,213	:	
Issued: 14 March, 2006	:	
Application No. 10/891,537	:	ON PETITION
Filed: 15 July, 2004	:	
Atty Dckt No. 060944-5008	:	

This is a decision on the petition filed on 2 May, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/30/2010

Applicant	: Wei Hong Yu	: DECISION ON REQUEST FOR
Patent Number	: 7611726	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/891,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1502** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HIGH POINT PHARMACEUTICALS, LLC
4170 MENDENHALL OAKS PARKWAY
HIGH POINT NC 27265

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application :
Florencio Zaragoza Dorwald :
Application No. 10/891,553 : DECISION ON APPLICATION
Filed: July 15, 2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 6344.210-US :

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE filed April 15, 2010. Applicant requests that the determination of patent term adjustment be corrected from 326 to 798 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

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

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

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/891,574	07/14/2004	Marlene Ann McGorrin	200402928-1	1403

7590 06/22/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
SHOSHO, CALLIE E

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 06/22/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed :

In re Application of:
McGorrin et al.
Serial Number: 10/891,574
Filed: July 14, 2004
For: Pigmented Ink-Jet Inks with Improved Print Quality And Reliability

This is a decision on the petitions filed 11/26/04 and 2/10/05 to correct inventorship under 37 CFR 1.48(a). It will be noted that the first of the petitions requested adding inventors Alexey S Kabalnov and Patricia A Wang. The second of the petitions requested deletion of the names of the same inventors sought to be added in the first petition. Since the examiner received both petitions simultaneously, it appears appropriate to address the petitions at the same time.

Given that the ultimate outcome of the two petitions is that the inventorship as set forth in the oath or declaration remains unchanged, the petitions are rendered moot. Hence, it appears that the proper response is to dismiss the petitions thereby preserving the inventorship as originally set forth in the oath or declaration. Should applicants have any questions, the examiner below can be contacted at (571)-272-1123.

The petitions are **DISMISSED**.

Callie Shosho
Primary Examiner, AU 1714
Technology Center 1700

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
For Collins CO 80527-2400

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Mailed :

In re Application of:
McGorrin et al.
Serial Number: 10/891,574
Filed: July 14, 2004
For: Pigmented Ink-Jet Inks with Improved Print Quality And Reliability

This is a decision on the petitions filed 11/26/04 and 2/10/05 to correct inventorship under 37 CFR 1.48(a). It will be noted that the first of the petitions requested adding inventors Alexey S Kabalnov and Patricia A Wang. The second of the petitions requested deletion of the names of the same inventors sought to be added in the first petition. Since the examiner received both petitions simultaneously, it appears appropriate to address the petitions at the same time.

Given that the ultimate outcome of the two petitions is that the inventorship as set forth in the oath or declaration remains unchanged, the petitions are rendered moot. Hence, it appears that the proper response is to dismiss the petitions thereby preserving the inventorship as originally set forth in the oath or declaration. Should applicants have any questions, the examiner below can be contacted at (571)-272-1123.

The petitions are **DISMISSED**.

Callie Shosho
Primary Examiner, AU 1714
Technology Center 1700

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
For Collins CO 80527-2400

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Brian M. Dingman, Esq.
Mirick O'Connell DeMallie & Lougee LLP
1700 West Park Drive
Westborough, MA 01581-3941

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NOV 08 2004

OFFICE OF PETITIONS

In re Application of	:	
Mack and Smith	:	
Application No. 10/891,584	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 18451-00002	:	

This is in regard to the letter filed July 30, 2004, which will be treated as a petition filed under 37 CFR 1.10 to correct the application a filing date of July 14, 2004.

The petition is **granted**.

The record reflects that the subject application arrived at the Patent and Trademark Office in an Express Mail envelope with Express Mail label EV232293558US showing a date-in of July 15, 2004. Petitioner filed the instant petition on July 30, 2004, asserting that the application should have been accorded a filing date of July 14, 2004, as that was date the application was deposited with the Express Mail service.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded or will accord, a filing date based upon an incorrect entry by USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of July 14, 2004.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of July 14, 2004, and a corrected filing receipt generated.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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75 STATE STREET
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ALBANY, NY 12207

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
You Fu Li	:	
Application No. 10/891,632	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. LDWS-0001	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply in a timely manner to the non-final Office action mailed May 14, 2008. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 15, 2008. A Notice of Abandonment was mailed on November 26, 2008. In response, on January 15, 2009, the present petition was filed.

Petitioner seeks revival solely for obtaining copendency with a continuation application filed November 12, 2008, in that the necessary continuity was not maintained at that time.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, the statement in the petition will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of continuing Application No. 12/269,124, filed November 12, 2008.

It is noted that petitioner included a fee for a 3-month extension of time with the present petition. However, extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $555 extension fee included with this petition is being refunded to counsel's credit card.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Wild et al.	:	
Application No. 10/891,658	:	ON APPLICATION FOR
Filed: 07/15/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 02-1240-F	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705" filed November 17, 2008, which is properly being treated under the provisions of 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be increased by 225 days to 644 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness

of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on February 26, 2008.

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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CHICAGO, IL 60606

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth D. Wild, Jr.	:	
Application No.: 10/891,658	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No.: 02-1240-F	:	

This is a decision on the petition, filed February 24, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 20, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1643 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

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

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ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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APR 07 2005

OFFICE OF PETITIONS

In re Application of
O'Hara
Application No. 10/891,671
Filed: July 14, 2004
Attorney Docket No. 511-018-2-1
For: MIXING, AERATION OR
OXYGENATING APPARATUS

DECISION GRANTING
PETITION

This is a decision on the correspondence, filed March 10, 2005 (certificate of mailing date March 8, 2005), requesting, that the application deposited on July 14, 2004 be accorded a filing date of July 14, 2004. The correspondence will be treated as a petition under 37 CFR 1.53(e)

The application was deposited on July 14, 2004. On February 1, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application informing petitioner that no filing date had been accorded to the application papers deposited on July 14, 2004 because a specification was omitted.

In response to the Notice, petitioner timely filed the present petition on March 10, 2005 (certificate of mailing date March 8, 2005). Petitioner asserts that a specification **was** received in the Patent and Trademark Office (PTO) on July 14, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode showing July 14, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included a copy of WO 00/5354.

The return postcard constitutes *prima facie* evidence that a copy of WO 00/5354 was filed on July 14, 2004. MPEP 503.

Petitioner states that he submitted a copy of International Publication No. WO 00/53534 from the parent application as the specification. It is noted that referenced document, as well as a excerpted copy of the specification from WO 00/53534 is present in the application file.

Accordingly, the request is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 14, 2004.**

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

E Shirene Willis

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/06

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/891671** Patent No.: **7074328**

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: _____

DUANE SMITH
SUPERVISORY PATENT EXAMINER

CHESTER T. BARRY
PRIMARY EXAMINER

for DUANE SMITH
SPE

1724
Art Unit

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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
10/891,693	07/15/2004	2122	1894	BEAS-01474US1 SRM/DTX	4	49	10

CONFIRMATION NO. 9874

CORRECTED FILING RECEIPT

OC000000015280218

23910
FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

Date Mailed: 02/25/2005

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)

Kevin Zatloukal, Cambridge, MA;

Assignment For Published Patent Application

BEA Systems, Inc., San Jose, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/488,648 07/19/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/891,693

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for translating programming languages

Preliminary Class

717

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 5, 2006

Stephan Gribok
DUANE MORRIS, LLP
30 South 17th Street
Philadelphia, PA 19103

Patent No.: 7063654 B2
Application No.: 10/891,705
Inventor(s): **Takao Taniguchi, et al.**
Issued: June 20, 2006
Title: **MACHINE CENTER**

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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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

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MAR 1 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,063,654	:	
Issue Date: 06-20-2006	:	
Application No. 10/891,705	:	ON PETITION
Filed: 07-15-2004	:	
Attorney Docket No. 3005-62	:	

This is a decision on the petition filed December 21, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The current fees due are a $130.00 processing fee and a $100.00 certificate of correction fee. The USPTO finance records indicated that the Office mistakenly overcharged the Deposit Account by $300.00. Therefore, this amount will be refunded to the Deposit Account.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/891708	07/15/04	DE RUIJTER, HENDRICUS	P1852CIP

FRANCISSEN PATENT
LAW, P.C.
53 W. JACKSON BLVD
SUITE # 1320
CHICAGO IL 60604

EXAMINER	
CHOW, CHARLES	
ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 2/5/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed _____**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO CA 94304

In re Application of	:	
Mark A. Pedersen	:	
Application No. 10/891,712	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. 25502-030-006	:	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 20, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***attorneys are no longer representing Applicant***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **LEX MCMAHON**
11670 MISSOURI AVENUE
LOS ANGELES, CA 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HONEYWELL/IFL
Patent Services
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Brent D. Larson	: DECISION ON REQUEST FOR
Patent Number	: 7597447	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,715	: 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 **1483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

In re Patent No. 6,891,601	:	
Issue Date: May 10, 2005	:	
Application No. 10/891,719	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 40146/10004:2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 11, 2009, for failure to pay the four and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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. 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 the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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 Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brian F. Swienton
Newport Corporation
1791 Deere Avenue
Irvine, CA 92606

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Frank, et al.	:	
Filed: July 14, 2004	:	ON PETITION
Application No. 10/891,720	:	
Atty. Dkt. No.: 02581-P0579A	:	

This decision is in response to the "Petition to Accord Filing Date to Items Alleged Omitted" filed November 26, 2004 in response to the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION ("Notice") mailed September 13, 2004 to accord the above-identified application a filing date of July 14, 2004 and enter Figure 2.

The application was filed July 14, 2004. The Notice indicated, *inter alia*, that the application had been accorded a filing date but that Figure 2 appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioners argue that the application as deposited included Figure 2. Petitioners have included as proof of mailing and proof of receipt of Figure 2 a return postcard date stamped by the Office on July 14, 2004. A copy of Figure 2 purportedly filed with the application on July 14, 2004 was also supplied.

The original Figure 2 submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of July 14, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.
This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 19, 2004.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 19, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BOWLES RICE MCDAVID GRAFF & LOVE LLP
POST OFFICE BOX 1386
CHARLESTON WV 25325-1386

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OFFICE OF PETITIONS

In re Application of
ESPOSITO, Patrick R. II, et al.
Application No. 10/891,725
Filed: July 15, 2004
Attorney Docket No. **A1933.80000**

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 04, 2008.

The request is **APPROVED**.

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

The request was signed by John Giblin. John Giblin has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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SPILMAN THOMAS & BATTLE PLLC
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

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In re Application of	:	
Esposito, et al.	:	
Application No. 10/891,725	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2009, 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 November 24, 2008. This Office action set a shortened statutory period for reply of three (3) months. Applicants filed a three month extension of time on March 6, 2009. However, applicants never filed a reply to the Office action. As such, the application became abandoned on May 25, 2009. The Office mailed a Notice of Abandonment on June 23, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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

The matter is being forwarded to Group Art Unit 3691 for consideration of the Amendment filed July 10, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Robert M. Fencl	: DECISION ON REQUEST FOR
Patent Number	: 7588577	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1406** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of	:	
Kalofonos et al.	:	
Application No. 10/891,780	:	DECISION ON PETITION
Filed: 07/15/2004	:	
Attorney Docket No. 00-8009 CON 1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 6, 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 July 7, 2006.

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

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received April 2, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

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OFFICE OF PETITIONS

In re Application of	:	
Coppens et al.	:	
Application No.: 10/891789	:	DECISION ON
Filing or 371(c) Date: 07/14/2004	:	PETITION
Attorney Docket Number: ASC-1	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)," filed March 16, 2008. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 17, 2004. The Notice set a two (2) month period for reply from the mail date of the Notice action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, on September 22, 2004; however, the oath/declaration was illegible.

The Office mailed a Notice of Abandonment on July 5, 2007, indicating as the reason for abandonment Applicant's failure to include the surcharge for late filing of the oath/declaration.

The present petition

Applicant responds to the Notice of Abandonment with the present petition wherein Applicant asserts that the response to the Notice included a credit card authorization form, and in addition to the credit card authorization form, Applicant included in the application as-filed on July 14, 2004, an authorization to charge any additional fees to Applicant's deposit account.

Applicable Law, rules and Manual of Patent Examining Procedure (MPEP)

Applicant is advised that an application becomes abandoned by operation of law for failure to completely and properly (including timely) reply to an Office communication. The following law, rules and Manual of Patent Examining Procedure are applicable:

The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application **shall** be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Analysis

Here, Applicant filed a reply; however, the reply was not a complete and proper reply. The oath/declaration was/is illegible. A substitute oath/declaration is required. The MPEP, in discussing petitions relating to abandonment of applications, states that

> a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). (Emphasis supplied).

Conclusion

In view of the foregoing, the application is abandoned. As provided in the Manual of Patent Examining Procedure,

> Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Alternate venue

Applicant is urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

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In re Application of	:	
Coppens et al.	:	
Application No.: 10/891789	:	DECISION ON
Filing or 371(c) Date: 07/14/2004	:	PETITION
Attorney Docket Number: ASC-1	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed August 17, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 17, 2004. The Notice set a two (2) month period for reply from the mail date of the Notice action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, on September 22, 2004; however, the oath/declaration was illegible.

The Office mailed a Notice of Abandonment on July 5, 2007, indicating as the reason for abandonment Applicant's failure to include the surcharge for late filing of the oath/declaration.

The petition to withdraw the holding of abandonment

Applicant filed a petition to withdraw the holding of abandonment on March 16, 2008, wherein Applicant asserted that the response to the Notice included a credit card authorization form, and in addition to the credit card authorization form, Applicant included in the application as-filed on July 14, 2004, an authorization to charge any additional fees to Applicant's deposit account.

The Decision dismissing the petition

A Decision dismissing the petition was mailed June 26, 2008. The Decision stated that while Applicant had filed a reply; the reply was not a complete and proper reply. The oath/declaration was/is illegible. The application was properly held abandoned.

The present petition

Applicant files the present petition to revive the application and includes an oath/declaration executed by two (2) of the three (3) inventors, and states that the third inventor, John B. Jones, is suffering from declining health and is unable to sign a new declaration at his time. Since inventor Jones is unable to execute a new Declaration at this time, Applicant re-submits the originally-filed Declaration and states that the Declaration clearly shows inventor Jones' signature on page 3.

Applicable Law, rules and Manual of Patent Examining Procedure (MPEP)

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition lacks item (1).

Analysis

As to item (1), the Notice required a properly signed oath/declaration. Here, the copy of the originally-filed Declaration is the same Declaration that led to the office issuing the Notice. The Declaration is illegible. While the signature of inventor Jones may be legible on the originally-filed Declaration, the name above the signature is illegible, as is other language required by 37 CFR 1.63.

Conclusion

The petition is dismissed. Applicant is advised that a petition under 37 CFR 1.47 is available where an inventor refuses to join in an application. Otherwise, a properly executed oath/declaration is required.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this Decision only 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

GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

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In re Application of	:	
Coppens et al.	:	
Application No.: 10/891789	:	DECISION ON
Filing or 371(c) Date: 07/14/2004	:	PETITION
Attorney Docket Number: ASC-1	:	

This is a decision on the renewed Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), and on the petition under 37 C.F.R. § 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. Both petitions were filed on December 19, 2008.

This Petitions are hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 17, 2004. The Notice set a two (2) month period for reply from the mail date of the Notice action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, on September 22, 2004; however, the oath/declaration was illegible.

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in addition to the credit card authorization form, Applicant included in the application as-filed on July 14, 2004, an authorization to charge any additional fees to Applicant's deposit account.

The Decision dismissing the petition

A Decision dismissing the petition was mailed June 26, 2008. The Decision stated that while Applicant had filed a reply; the reply was not a complete and proper reply. The oath/declaration was/is illegible. The application was properly held abandoned.

The August 17, 2008 petition to revive

Applicant filed a petition to revive the application on August 17, 2008 and included an oath/declaration executed by two (2) of the three (3) inventors, and stated that the third inventor, John B. Jones, is suffering from declining health and was unable to sign a new declaration at that time. Since inventor Jones was unable to execute a new Declaration at this time, Applicant re-submitted the originally-filed Declaration and stated that the Declaration clearly shows inventor Jones' signature on page 3.

Applicable Law, rules and Manual of Patent Examining Procedure (MPEP)

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
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(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition lacks item (1).

The September 19, 2008 Decision dismissing the petition

The petition was dismissed in a Decision mailed September 19, 2008. The Decision dismissing the petition noted that, as to item (1), the Notice required a properly signed oath/declaration. With the petition to revive, the copy of the originally-filed Declaration was the same Declaration that led to the office issuing the Notice. The Declaration was still illegible. While the signature of inventor Jones may have been legible on the originally-filed Declaration, the name above the signature is illegible, as was other language required by 37 CFR 1.63. Applicant was advised that a petition under 37 CFR 1.47 is available where an inventor refuses to join in an application. Otherwise, a properly executed oath/declaration was required.

The present renewed petition and rule 47 petition

Applicant files the present renewed petition and a petition under 37 CFR 1.47(a) wherein Applicant has included an oath/declaration executed by two of three inventors, with the signature of inventor John B. Jones still missing from the oath/declaration. Applicant also includes an Application Data Sheet identifying the inventors. In support of the petition, Applicant states that inventor Jones "cannot be located to sign a new declaration," and also states that inventor Jones "refuses to sign a new declaration."

A Grantable Petition Under 37 CFR 1.47(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), the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence of a bona fide effort to present copy of the application papers to the non-signing inventor. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor. The MPEP further provides

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be

made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

MPEP 409.03(d).

Further as to item (1), Applicant is advised that, where an inventor is unavailable (cannot be reached), Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Applicant has also not demonstrated that diligent effort was made to locate the inventor.

Conclusion

Applicant must clarify whether the inventor (1) refuses to join in the application; (2) cannot be found or reached after diligent effort, or (3) is in ill health and is incapacitated such that the inventor is unable to execute the declaration, in which case the legal guardian of the inventor may make oath/declaration on the nonsigning inventors behalf. 37 CFR 1.43.

Applicant must provide

1) either an oath/declaration that identifies the inventors and is executed by all inventors;

2) an oath/declaration executed by the available inventors and also executed by the legal guardian of the nonsigning inventor, or

3) an oath or declaration in compliance with 37 CFR 1.47(a) as outlined above.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this Decision only 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
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GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

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OFFICE OF PETITIONS

In re Application of	:	
Coppens et al.	:	
Application No.: 10/891789	:	DECISION ON
Filing or 371(c) Date: 07/14/2004	:	PETITION
Attorney Docket Number: ASC-1	:	

This is a decision on the renewed Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), and on the petition under 37 C.F.R. § 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. Both petitions were filed on February 17, 2009.

The Petition under 37 CFR 1.137(b) is hereby **granted**.

The Petition under 37 CFR 1.47(a) is hereby **dismissed as moot**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 17, 2004. The Notice set a two (2) month period for reply from the mail date of the Notice action. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply to the Notice in the form of an executed oath/declaration, on September 22, 2004; however, the oath/declaration was illegible.

The Office mailed a Notice of Abandonment on July 5, 2007, indicating as the reason for abandonment Applicant's failure to include the surcharge for late filing of the oath/declaration.

The petition to withdraw the holding of abandonment

Applicant filed a petition to withdraw the holding of abandonment on March 16, 2008, wherein Applicant asserted that the response to the Notice included a credit card authorization form, and in addition to the credit card authorization form, Applicant included in the application as-filed on July 14, 2004, an authorization to charge any additional fees to Applicant's deposit account.

The Decision dismissing the petition

A Decision dismissing the petition was mailed June 26, 2008. The Decision stated that while Applicant had filed a reply; the reply was not a complete and proper reply. The oath/declaration was/is illegible. The application was properly held abandoned.

The August 17, 2008 petition to revive

Applicant filed a petition to revive the application on August 17, 2008 and included an oath/declaration executed by two (2) of the three (3) inventors, and stated that the third inventor, John B. Jones, is suffering from declining health and was unable to sign a new declaration at that time. Since inventor Jones was unable to execute a new Declaration at this time, Applicant re-submitted the originally-filed Declaration and stated that the Declaration clearly shows inventor Jones' signature on page 3.

The September 19, 2008 Decision dismissing the petition

The petition was dismissed in a Decision mailed September 19, 2008. The Decision dismissing the petition noted that, as to item (1), the Notice required a properly signed oath/declaration. With the petition to revive, the copy of the originally-filed Declaration was the same Declaration that led to the office issuing the Notice. The Declaration was still illegible. While the signature of inventor Jones may have been legible on the originally-filed Declaration, the name above the signature is illegible, as was other language required by 37 CFR 1.63. Applicant was advised that a petition under 37 CFR 1.47 is available where an inventor refuses to join in an application. Otherwise, a properly executed oath/declaration was required.

The December 19, 2008 rule 1.137(b) and rule 47 petition

Applicant filed renewed petitions on December 19, 2008, wherein Applicant included an oath/declaration executed by two of three inventors, with the signature of inventor John B. Jones still missing from the oath/declaration. Applicant also included an Application Data Sheet identifying the inventors. In support of the petition, Applicant stated that inventor Jones "cannot be located to sign a new declaration," and also stated that inventor Jones "refuses to sign a new declaration."

The petitions were dismissed in a Decision mailed December 24, 2008. The Decision dismissing the petitions noted, as to the petition to revive the application under 37 CFR 1.137(b), the required reply was missing. The required reply was either a fully executed oath or declaration, or a grantable petition under 37 CFR 1.147(a). The rule 47 petition was dismissed because Applicant had failed to meet the requirements of a grantable petition under 37 CFR 1.47(a).

The present renewed petitions

Applicant files the present renewed petitions and includes an oath/declaration executed by the legal representative of the now deceased inventor.

In view of the joinder of the legal representative of the deceased inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Renewed Petition is considered to be 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).

Moreover, and also in view of the joinder of the legal representative of the deceased inventor in the executed oath/declaration filed with the present petition, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee(previously submitted); and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Declaration has been entered and made of record.

This application is being referred to the Office of Patent Application for continued processing in the normal course of business.

Telephone inquiries related to this decision may 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

In re Application of
Declaration is Illegible

Application No. 10891789

Filed: July 14,2004

Attorney Docket No. ASC-1

: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 05-MAR-2009 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.

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/24/04

Kenneth S. Sachar
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/891799 received on 09/07/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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. 6895629
Issue Date: May 24,2005
Application No. 10891801
Filed: July 15,2004
Attorney Docket No. W-00019-003

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

This is a decision on the electronic petition, filed October 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,895,629	2005-05-24	10/891,801	2004-07-15	W-00019-003

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	/R. William Graham/	Date (YYYY-MM-DD)	2009-10-06
Name	R. William Graham	Registration Number	33891

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

James Minerve
20818 Wild Springs Drive
San Antonio, TX 78258

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APR 22 2005

OFFICE OF PETITIONS

In re Application of
Cantu et al.
Application No. 10/891,808
Filed: July 15, 2004
For: Bob Stick

Decision on Petition

This is a decision on the petition filed December 18, 2004, requesting, in effect, that several sheets of drawings filed on December 18, 2004, be entered as part of the original disclosure.

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 NOT permitted.

The Office may not consider the merits of a petition until the full petition fee has been submitted. If petitioner proves the missing items were present on December 18, 2004, and were misplaced by the Office, the petition fee will be refunded. As stated on the fee sheet submitted with the petition, the fee due is $400.[1] Petitioner has only submitted $130. Therefore, an additional $270 must be filed.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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[1] Although the petition is labeled as a petition under 37 CFR 1.182, the petition is properly treated as a petition filed under 37 CFR 1.53. The fee for both types of petitions is $400. 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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OIPE JC144
MAY 0 5 2005
PATENT & TRADEMARK OFFICE

James Minerve
20818 Wild Springs Drive
San Antonio, TX 78258

COPY MAILED

APR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Cantu et al.
Application No. 10/891,808
Filed: July 15, 2004
For: Bob Stick

Decision on Petition

This is a decision on the petition filed December 18, 2004, requesting, in effect, that several sheets of drawings filed on December 18, 2004, be entered as part of the original disclosure.

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 NOT permitted.

The Office may not consider the merits of a petition until the full petition fee has been submitted. If petitioner proves the missing items were present on December 18, 2004, and were misplaced by the Office, the petition fee will be refunded. As stated on the fee sheet submitted with the petition, the fee due is $400.[1] Petitioner has only submitted $130. Therefore, an additional $270 must be filed.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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[1] Although the petition is labeled as a petition under 37 CFR 1.182, the petition is properly treated as a petition filed under 37 CFR 1.53. The fee for both types of petitions is $400. 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).

OIPE JC144
MAY 0 5 2005
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ROGELIO CANTU
TDL 08298418
16304 KNOTTINGHAM DR. 512-252-3982
PFLUGERVILLE, TX 78660

Appl # 10/891,808 Conf # 9485
Filing Dte. 7/15/2004
Title: The Bobstick
Applicant Name: Roger Cantu

5039
88-474/1149

12-18 2008

Pay to the order of USPTO $ 130.00

One hundred thirty dollars & 00/100 Dollars

Security Features Included Details on Back.

FIRST TEXAS BANK
(512) 255-2501 P.O. BOX 5
ROUND ROCK, TX 78680 05

For Petition fee 37 CFR 1.17(h) Petition 37 CFR 1.182

MP

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OIPE JC124
MAY 0 5 2005
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05-06-05

DAC $
IFW

US Appl. No.: 10/891,808
Filing Date: 07/15/2004
Name of Applicant: Roger Cantu et al.

Invention Title: The Bob Stick
Decision on Petition
Date Mailed: April 22, 2005

TRANSMITTAL LETTER

May 4, 2005

ED884557543US

Steven Brentley, Esq.
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Reconsideration of Petition filed December 18, 2004, requesting, in effect, that several sheets of drawings filed on December 18, 2004, be entered as part of the original disclosure.

Dear Mr. Brentley:

This letter and enclosures are a formal request for a reconsideration of the above referenced petition. Before a petition may be considered on the merits, the petitioner must remit the full petition fee. Please find enclosed a check for Two Hundred Seventy Dollars ($270), a Petition Fee Transmittal, and a copy of your Decision on Petition letter, dated April 22, 2005, dismissing the above referenced petition. Also please find a copy of a check for One Hundred Thirty Dollars ($130), the check of which I submitted with the above referenced petition. Mr. Brentley, please reconsider the above referenced petition on the merits, as the complete petition fee is now on file.

Following is a complete itemization of the contents of this request for reconsideration of petition:

1. Return Postcard Receipt;
2. Decision on Petition, dated April 22, 2005;
3. Petition Fee Transmittal;
4. Check for $270 (to supplement petition fee under CFR 1.17(h) previously submitted);
5. Copy of check for $130 (this check was submitted December 18, 2005, with the above referenced petition).

If there are any questions regarding the contents of this request for reconsideration, please call me at your convenience. In advance, thanks for your prompt attention and careful consideration of this matter.

Respectfully Submitted,

James Minerve

James Minerve, Esq.
Registration No.: 45,376
20818 Wild Springs Drive
San Antonio, Texas 78258
office (210) 336-5867; fax (210) 481-0593

ENCLOSURE:

OIPE
MAY 0 5 2005
PATENT & TRADEMARK OFFICE

PTO/SB/17p (11-04)
Approved for use through 07/31/2007. 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 FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/891,808
Filing Date	7/15/2004
First Named Inventor	Roger Cantu
Art Unit	3711
Examiner Name	Steven Brentley
Attorney Docket Number	

~~Enclosed is a~~ **petition filed under 37 CFR** 1.53 **that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of $** 270.00 **is enclosed.** Petition filed December 18, 2004.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. *For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.*

Payment of Fees (small entity amounts are NOT available for the petition fees)

☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No._____:
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments
Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of $_____ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee $400 Fee Code 1462
For petitions filed under:
§ 1.53(e) - to accord a filing date.
§ 1.57(a) - to accord a filing date.
§ 1.182 - for decision on a question not specifically provided for.
§ 1.183 - to suspend the rules.
§ 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
§ 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee $200 Fee Code 1463
For petitions filed under:
§ 1.12 - for access to an assignment record.
§ 1.14 - for access to an application.
§ 1.47 - for filing by other than all the inventors or a person not the inventor.
§ 1.59 - for expungement of information.
§ 1.103(a) - to suspend action in an application.
§ 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
§ 1.295 - for review of refusal to publish a statutory invention registration.
§ 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
§ 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
§ 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
§ 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
§ 5.12 - for expedited handling of a foreign filing license.
§ 5.15 - for changing the scope of a license.
§ 5.25 - for retroactive license.

Adjustment date: 05/09/2005 CCHAU1
12/23/2004 KBETEMA1 00000050 10891808
01 FC:1464 -130.00 OP

Petition Fees under 37 CFR 1.17(h): Fee $130 Fee Code 1464
For petitions filed under:
§ 1.19(g) - to request documents in a form other than that provided in this part.
§ 1.84 - for accepting color drawings or photographs.
§ 1.91 - for entry of a model or exhibit.
§ 1.102(d) - to make an application special.
§ 1.138(c) - to expressly abandon an application to avoid publication.
§ 1.313 - to withdraw an application from issue.
§ 1.314 - to defer issuance of a patent.

05/09/2005 CCHAU1 00000069 10891808
01 FC:1462 400.00 OP

James Minerve
Signature

5/4/05
Date

James Minerve
Typed or printed name

45,376
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. 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 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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JUL 2 0 2005

OFFICE OF PETITIONS

James Minerve
20818 Wild Springs Drive
San Antonio, TX 78258

In re Application of
Cantu et al.
Application No. 10/891,808
Filed: July 15, 2004
For: Bob Stick

Decision on Petition

This is a decision in response to the paper filed June 27, 2005, requesting, in effect, that the Notice mailed October 19, 2004, be withdrawn to the extent the Notice states several drawing Figures are missing.

The petition is **granted**.

Facts:

The application was filed on July 15, 2004.

The first page of the drawings was submitted on a 24 inch by 36 inch page.

The Office scanned the application papers into an electronic file wrapper. However, the first page of the drawings was not scanned due to the size of the sheet. The first drawing page was placed into an "artifact" folder for storage purposes.

On October 19, 2004, the Office mailed a Notice stating that certain drawing Figures were missing. The Figures listed as missing were the Figures listed on page 1 of the drawings.

A petition under 37 CFR 1.53 was filed December 18, 2004, to establish that the missing Figures had in fact been filed on July 15, 2004.

The petition was accompanied by a 24 inch by 36 inch copy of the first page of the drawings. The copy of the first drawing page was not scanned but was placed into an "artifact" folder.

The petition was also accompanied by corrected drawings which did not have any of the Figures or pages missing.

Petitioner submitted $130 for the petition fee. However, the fee had increased to $400 on November 1, 2004. The Office dismissed the petition and stated the merits of the petition could not be considered until $270 was paid for the remainder of the petition fee.

Petitioner submitted $270 for the remainder of the petition fee on May 5, 2005.

Petitioner submitted the instant letter and a reduced size copy of the first page of the originally filed drawings on June 27, 2005.

The copy of the postcard filed with the first petition could not be located in the Office file and a copy of the postcard receipt was submitted on July 8, 2005.

The postcard receipt indicates 3 sheets of drawings were filed on July 15, 2004. However, the file

contains 4 sheets of drawings received on that day not including the paper which had been placed into an artifact folder. A copy of the 4 pages of drawings is attached.

Due to the discrepancy between the postcard receipt and the number of drawing sheets in the electronic file wrapper, the artifact folders were ordered for this file.

The artifact folder created at the time of filing contains a large drawing sheet which appears identical in all aspects other than size to the page filed June 27, 2005.

Analysis:

A review of the artifact folder indicates the missing drawings were in fact filed on July 15, 2004, although filed on an oversized sheet that could not be scanned. Therefore, the petition is granted.

MPEP 507 states that if drawings are filed which can not be scanned, OIPE will object to the drawings and notify applicant. In this case, applicant was not notified that sheet 1 of the drawings was unacceptable but was informed, in essence, the sheet was missing. For that reason, a refund of the $400 petition fee will be scheduled. This decision is *not* a determination that the petition fee will be refunded in similar circumstances in the future.

The Notice mailed October 19, 2004 is hereby vacated to the extent the Notice indicated various drawing Figures were omitted.

The Office of Initial Patent Examination will be informed of the instant decision so that it may further process the application with a filing date of July 15, 2004, using the application papers filed on July 15, 2004, and the copy of the 5 sheets of corrected drawings filed on December 18, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: copies of 4 sheets of drawings

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John K. Buche
7777 Fay Avenue
Suite 205
La Jolla, CA 92037

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Mary Bardouche	:	
Application No. 10/891,823	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. Bardouche	:	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 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 John K. Buche 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 Mary Bardouche at the address indicated below.

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: **Mary Bardouche**
404 Cincinnati Avenue
El Paso, TX 79902

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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
10/891,823	07/16/2004	Mary Bardouche	Bardouche

CONFIRMATION NO. 9490

POWER OF ATTORNEY NOTICE

OC000000028567638

61226
JOHN K. BUCHE
7777 FAY AVENUE
SUITE 205
LA JOLLA, CA 92037

Date Mailed: 02/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2007.

- 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.

/tswilliams/

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

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of :
Bruce Pedersen :
Application No. 10/891,827 :
Filed: July 14, 2004 :
Attorney Docket No. ALTRP182C1/A810C1 :

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 9, 2005.

The request is **APPROVED**.

A review of the file record indicates that Stephen C. Durant: (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, Stephen C. Durant, along with all the other attorneys at the law firm of Morrison & Foerster LLP, has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All future communications from the Office will continue to be directed to the below address below until otherwise properly notified by the applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2819 for the mailing of the Non-final Office action of May 9, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

BEYER WEAVER & THOMAS, LLP
ATTN: ALTERA
P.O. BOX 70250
OAKLAND CA 94612-0250

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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	:	
Gregory B. Anderson	:	
Application No. 10/891,828	:	DECISION ON PETITION
Filed: July 14, 2004	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 04378/100N009-US1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed June 27, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P. O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of	:
Gregory B. Anderson	:
Application No. 10/891,828	: DECISION GRANTING PETITION
Filed: July 14, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04378/100N009-US1	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2891 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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WILLIAM G. LANE
WILLIAM G. LANE, INC., PC
16485 LAGUNA CANYON RD
SUITE 250
IRVINE, CA 92618

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DEC 28 2006

OFFICE OF PETITIONS

In re Patent No. 7,036,344 :
Issue Date: May 2, 2006 :
Application No. 10/891,830 :
Filed: July 15, 2004 :
Attorney Docket No. H010-1007B :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed July 3, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent 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 Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, the petition lacks items 2 and 3 above. Office records reflect that

the Letters Patent was mailed to the address of record at the time; namely, Willaim G. Lane; William G. Lane, Inc. PC; 16485 Laguna Canyon Road, Suite 250; Irvine, CA 92618. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

In view of the above, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted at this time. .

If petitioner cannot submit the required evidence to establish nonreceipt of the original Letters Patent or simply does not wish to, petitioner may consider filing a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the required fee of $400.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAY 25 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,579,342
Issue Date: August 25, 2009
Application No. 10/891,833
Filed: July 15, 2004
Attorney Docket No. 06275-309US2 /
Z70687-2P US

:DECISION ON REQUEST FOR
:RECONSIDERATION OF
:PATENT TERM ADJUSTMENT
:AND
:NOTICE OF INTENT TO ISSUE
:CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed October 23, 2009. Based upon the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), Patentees request that the patent term adjustment indicated on the patent be corrected from six hundred fifty-three (653) days to one thousand one hundred twenty-nine (1129) days.

The request for reconsideration of the patent term adjustment indicated on 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 one thousand one hundred twenty-eight **(1128)** days.

Patentee is 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.

On August 25, 2009, the above-identified application matured into U.S. Patent No. 7,579,342, with a revised Patent Term Adjustment of 653 days. The instant request for reconsideration filed October 23, 2009 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

The patent term adjustment in the above-identified patent has been reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010). By decision issued January 7, 2010, the Federal Circuit held that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay[1] and the B delay[2] because the B delay has yet to begin or take any effect. If an A

[1] Pursuant to 35 U.S.C. 154(b)(1)(A) for examination delays during the pendency of the application.

[2] Pursuant to 35 U.S.C. 154(b)(1)(B) for the Office taking in excess of three years to issue the patent.

delay occurs one day and a B delay occurs on a different day, those two days do not 'overlap' under section 154(b)(2)." (footnotes added). In other words, the Court affirmed the District Court's conclusion that "the only way that [A and B] periods of time can 'overlap' is if they occur on the same day."

In this instance, the "A" delay is calculated from September 16, 2005 to July 24, 2007 for 677 days and from December 24, 2007 to March 26, 2008 for 93 days. On the other hand, 577 days of "B" delay is calculated from the day after the date that is three years from the day of filing, July 16, 2007 until February 12, 2009, the filing of a request for continued examination (RCE). (The filing of an RCE cuts off the ability to accumulate additional patent term adjustment under the three-year pendency provision. Thus, the period beginning on the day of filing of the RCE is excluded from the three year period. See 35 U.S.C. 154(b)(1)(B)(I)). Thus, for the period from July 16, 2007 to July 24, 2007 and from December 25, 2007 to March 26, 2008, 102 days, the "A" delay and "B" delay occur on the same days and in accordance with the decision in Wyeth, the periods overlap. As such, applicant is entitled to a patent term adjustment of 1128 days (677 + 577 + 93 reduced by 102 overlap – 117 (applicant delay).

In view thereof, the patent should have issued with a revised patent term adjustment of 1128 days.

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

The application 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 one thousand one hundred twenty-eight **(1128)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,342 B2

DATED : August 25, 2009

INVENTOR(S) : Roger Bonnert

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 (653) days

Delete the phrase "by 653 days" and insert – by 1128 days--

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

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

COPY MAILED

MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Rode, John E.	:	
Application No. 10/891,838	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 0545.035	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 7, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's driver's license and U.S. Passport. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 3673 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr : 12-07

TOLER LAW GROUP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN TX 78759

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FEB 19 2008

In re Application of	:	
Kortum, et al.	:	
Application No. 10/891,845	:	DECISION
Filed: 15 July, 2004	:	
Attorney Docket No. 1033-LB1052	:	

This is a decision on the petition filed on 22 June, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.[2] Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

2 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and 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.

BACKGROUND

The record reflects that:

- Applicant, through then/former Counsel, failed to reply timely and properly to the Notice of Missing Parts mailed on 9 September, 2004, with reply due absent an extension of time on or before 9 November, 2004;

- Applicant's (through then/former Counsel) 8 November 2004, reply appears to have failed to satisfy the fees due, and on 17 November, 2004, the Office mailed a Notice of Incomplete Reply (the 17 November, 2004, Notice) with reply due absent extension of time on or before the previous due date of 9 November, 2004;

- Applicant (through then/former Counsel) failed to reply timely and properly to the 17 November, 2004, Notice (with reply due absent extension of time on or before the previous due date of 9 November, 2004);

- the application went abandoned after midnight 9 November, 2004;

- on 13 December, 2004, mail (in the form of the 17 November, 2004, filing receipt) was returned (as undelivered/undeliverable) to the Office for this application;

- on 24 April, 2007, Jeffrey G. Toler (Reg. No. 38,342) filed an IDS (with fee);

- on 2 May, 2007, the Office mailed the Notice of Abandonment;

- on 22 June, 2007, Petitioner Jeffrey G. Toler (Petitioner) filed, *inter alia*, the instant petition averring, *inter alia*, failure to receive the 17 November, 2004, Notice, and demanded the withdrawal of the holding of abandonment;

- not until 2 August, 2007, did Petitioner file a Revocation/Power of Attorney and a Notice of Change of Address—therefore, not until 2 August, 2007, was Petitioner of record as Counsel; moreover, it appears from the record that Applicant and/or Applicant's then/former Counsel changed address(es) without advance Notice to the Office, with a result that mailing of actions by the Office were returned to the Office by the U.S. Postal Service (USPS) as undelivered/undeliverable due not to any error of the Office.

Petitioner's representations on petition appear not to be consistent with the facts of record as set forth above.

Moreover, it appears from the record is that Petitioner—in light of his recent enrollment as Counsel herein—was not and is not in a position to address and state the nature of the abandonment herein.

Thus, any petition (including that under 37 C.F.R. §1.137(b), which appears to be appropriate herein) must be signed by the then/former Counsel, or the Applicant(s), or the Assignee(s) of record at the time of the abandonment (with a certificate under 37 C.F.R. §3.73(b), who would be the only persons properly in position to make such a statement.

Further, in light of the extended period of abandonment (i.e., since 9 November 2004) those advancing any future petition must make a showing supported with documents to include but not be limited to docketing and tickler file records. (See: the commentary at MPEP §711.03(c).)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing

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

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied or be in a position to satisfy the showing burdens herein.

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

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

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

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

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

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUSTIN TX 78759

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In re Application of	:	
Kortum, et al.	:	
Application No. 10/891,845	:	DECISION
Filed: 15 July, 2004	:	
Attorney Docket No. 1033-LB1052	:	

This is a decision on the petition filed on 27 March, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and subsequently supplemented in the alternative on 17 June, 2008, with a petition for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**, however, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181[1]):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers

[1] *See*: the Commentary at MPEP §711.03(c).

submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

As discussed hereinbelow, Petitioner has not satisfied the showing required.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, through then/former Counsel, failed to reply timely and properly to the Notice of Missing Parts mailed on 9 September, 2004, with reply due absent an extension of time on or before 9 November, 2004.

Applicant's (through then/former Counsel) 8 November 2004, reply appears to have failed to satisfy the fees due, and on 17 November, 2004, the Office mailed a Notice of Incomplete Reply (the 17 November, 2004, Notice) with reply due absent extension of time on or before the previous due date of 9 November, 2004.

Applicant (through then/former Counsel) failed to reply timely and properly to the 17 November, 2004, Notice (with reply due absent extension of time on or before the previous due date of 9 November, 2004).

The application went abandoned after midnight 9 November, 2004.

On 13 December, 2004, mail (in the form of the 17 November, 2004, filing receipt) was returned (as undelivered/undeliverable) to the Office for this application.

On 24 April, 2007, Jeffrey G. Toler (Reg. No. 38,342) filed an IDS (with fee).

On 2 May, 2007, the Office mailed the Notice of Abandonment.

On 22 June, 2007, Petitioner Jeffrey G. Toler (Petitioner) filed, *inter alia*, a petition averring, *inter alia*, failure to receive the 17 November, 2004, Notice, and demanded the withdrawal of the holding of abandonment. Petitioner included therewith the reply in the form of authorization for the fees due, and it appears that the fees were charged at that time. Petitioner did not file until 2 August, 2007, a Revocation/Power of Attorney and a Notice of Change of Address—therefore, not until 2 August, 2007, was Petitioner of record as Counsel; moreover, it appears from the record that Applicant and/or Applicant's then/former Counsel changed address(es) without advance Notice to the Office, with a result that mailing of actions by the Office were returned to the Office by the U.S. Postal Service (USPS) as undelivered/undeliverable due not to any error of the Office—and so the petition was dismissed on 19 February, 2008.

On 27 March, 2008, Petitioner filed the instant petition re-averring the position set forth in the petition of 22 June, 2007, pointed to the reply previously submitted (authorization for fees due, then charged), and also made a statement of unintentional delay and sought relief under the provisions of 37 C.F.R. §1.137(b). The statement of unintentional delay was supplemented on 17 June, 2008, with a petition over the name and signature of former Counsel Matthew Burr (Reg. No. 37,591).

The record (including the petitions filed on 22 June, 2007, and 27 March and 17 June, 2008) does not necessitate a finding that the delay between midnight 9 November, 2004 (the date of abandonment), and 17 June, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner Jeffrey G. Toler (Reg. No. 38,342) and former Counsel Matthew Burr (Reg. No. 37,591) when accepting Petitioners' representation that the delay in filing the response <u>was</u> unintentional.[2]

(Petitioners who are not of record at the time an application goes abandoned and who do not obtain the statement of the person responsible for the application at the time of abandonment (attorney/agent/applicant/assignee) are reminded that their assertion(s) as to the nature of a delay <u>and/or</u> that a delay is unintentional are construed to have been made in concert with the aforementioned duty to inquire and disclose, and <u>must</u> notify the Office if their appreciation of the nature of the delay is one other than unintentional, <u>or</u> if they previously have failed to satisfy their obligation under 37 C.F.R. §10.18(b) to inquire into the underlying facts and circumstances when providing statements to the Office in this matter.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running as to any action by the

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[2] *See:* <u>Changes to Patent Practice and Procedure</u>, 62 <u>Fed. Reg.</u> at 53160 and 53178, 1203 <u>Off. Gaz. Pat. Office</u> at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

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

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[4] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied the showing burden herein.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**, however, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Office of Patent Application Processing (OPAP) for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

[4] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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[5]) 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

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[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Kenneth L. Shaw	: DECISION ON REQUEST FOR
Patent Number	: 7571589	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,850	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1363** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

O.I.P.E. JC112
JAN 2 6 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Mark Spatz
Serial No.	10/891,861
Title:	REFRIGERANT COMPOSITIONS AND USE THEREOF IN LOW TEMPERATURE REFRIGERATION SYSTEMS
Filed:	July 15, 2004
Examiner:	Not yet Assigned
Art Unit:	1751
Confirmation No.:	2621
Customer No.:	000128
Attorney Docket No.:	H0005639

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

PETITION UNDER 37 CFR 1.102(c)
TO ADVANCE EXAMINATION

Honorable Commissioner for patents:

Applicant respectfully petitions that the examination of this application be made special and advanced in turn of examination under 37 CFR 1.102(c) on the basis that this invention will materially enhance the quality of the environment.

This invention relates to a refrigerant composition that will replace the ozone-depleting refrigerant chlorodifluoromethane, known as HCFC-22 or R-22, for heating and cooling applications.

PETITION GRANTED

Richard Crispino
Special Program Examiner
FEB 2 8 2005 **TC 1700**

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/10/2010

Applicant	: Kanchei Loa	: DECISION ON REQUEST FOR
Patent Number	: 7616632	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/891,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1343** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Hugo Santiago Carrer	: DECISION ON REQUEST FOR
Patent Number	: 7580454	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/891,876	: 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 **1323** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LUMIGEN, INC.
22900 W. EIGHT MILE ROAD
SOUTHFIELD MI 48034

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AUG 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Akhavan et al.	:	
Application No. 10/891,880	:	DECISION ON PETITION
Filed: July 15, 2004	:	
Attorney Dkt No.: Lurn. 4.1-89	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to a non-final Office Action mailed December 29, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

Petitioner submitted a request for a three (3) month extension of time with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month maximum extendable period expired on June 29, 2006. Petitioner is ineligible for any extensions of time. Thus, deposit account no. 12-2368 will be credited with the $510.00 submitted to obtain the three month extension of time.

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

This application is being forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 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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DEC 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Guy Cook, et. al.	:	
Application No. 10/891,885	:	DECISION ON PETITION
Filed: July 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1759/2002	:	

This is a decision on the petition, filed September 18, 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 delay in responding is regretted.

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 April 28, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such

foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of March 13, 2008 accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 4173, for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/891,885	07/15/2004	Guy Cook	1759/2002

CONFIRMATION NO. 9146

164
KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

NONPUBLICATION RESCISSION LETTER

OC000000027091919

Date Mailed: 12/05/2007

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

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

The projected publication date is 03/13/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PITTS AND BRITTIAN PC
P.O. BOX 51295
KNOXVILLE, TN 37950-1295

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of

John G. LOVELL, SR.
Application No. 10/891,889
Filed: June 22, 2007
Attorney Docket No. 07-17970

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a declaration signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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 3714 for action on the merits commensurate with this decision.

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

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Velipasaoglu et al.	:	
Application No. 10/891,892	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 021269-000540US	:	

This is a decision on the petition under 37 CFR 1.181, filed August 3, 2007, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **DISMISSED AS MOOT.**

Petitioner states that the Request for Continued Examination (RCE) and the accompanying response was in fact timely filed on May 8, 2007. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on May 11, 2007 of 1. RCE Transmittal; 2. Petition for Extension of Time; 3. Response Accompanying RCE; and 4. Return Postcard. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of May 8, 2007.

A review of the application file discloses that the response was timely received. Further, the response was processed at the USPTO and the instant application was never deemed abandoned.

On July 13, 2007, a Notice of Allowance and a Notice of Allowability was issued by the Examiner and mailed to the correspondence address of record. Failure to timely and properly response will result in abandonment.

This matter is being referred to the Publishing Division to await a response to the Notice of Allowance and the Notice of Allowability.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TIMOTHY D. BENNETT, ESQ.
BROUSE MCDOWELL, LPA
388 SOUTH MAIN STREET SUITE #500
AKRON OH 44311-4407

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JUN 0 9 2008

In re Application of	:	
KALAL, J. David	:	
Application No. 10/891,898	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO WITHDRAW
Attorney Docket No. **11695.26305**	:	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 01, 2008.

The request is **APPROVED**.

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

The request was signed by Heather M. Barnes on behalf of all attorneys of record who are associated with customer No. 26781. 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.

The application became abandoned for failure to timely respond to the Office action mailed October 12, 2007.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **J. DAVID KALAL**
1105 SAN RAPHAEL RD.
AKRON, OH 44333

cc: **EMERSON, THOMSON & BENNETT**
777 WEST MARKET STREET
AKRON, OHIO 44303

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE, 16TH FLOOR
NEW YORK, NY 10001-7708

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JAN 25 2010

In re Application of	:	
Kazuhiro SASAKI, et *al.*	:	
Application No. 10/891,904	:	DECISION GRANTING PETITION
Filed: July 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **04470/LH**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 21, 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 December 23, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL BEST & FRIEDRICH LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON WI 53701

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DEC 0 8 2008

In re Application of	:	
MAYHEW, Lawrence et al.	:	
Application No. 10/891,920	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO WITHDRAW
Attorney Docket No. **010765-9002**	:	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 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. 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 Jeffrey D. Peterson on behalf of all attorneys of record who are associated with customer No. 23510. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed December 08, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LAWRENCE MAYHEW**
3899 SCHREINER ROAD
SPRING GREEN, WI 53588

cc: **MIDWESTERN BIO-AG PRODUCTS & SERVICES, INC.**
P.O. BOX 160
BLUE MOUNDS, WI 53517

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400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Taras et al.	:	
Application No. 10/891,938	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 60,246-344; 10,899	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/891,957	07/14/2004	2839	385	24855-909	8	4	1

CONFIRMATION NO. 2970

CORRECTED FILING RECEIPT

OC000000014402437

Barley Snyder
Suite 275
1000 Westlakes Drive
Berwyn, PA 19312

Date Mailed: 11/18/2004

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

Applicant(s)

Dimitry Grabbe, Middletown, PA;

Power of Attorney:

Salvatore Anastasi–39090
Jennifer Slonaker–50568

Domestic Priority data as claimed by applicant

This application is a CON of 10/608,205 06/27/2003 PAT 6,816,654

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 US10/891,957

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Fiber array ferrule and method of making

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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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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APR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
John D. **FRY**	:	
Application No. 10/891,962	:	DECISION GRANTING PETITION
Filed: July 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15885.1.2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 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 March 6, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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JJGJR.: 07-06

Paper No: __

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JUL 17 2006
OFFICE OF PETITIONS

SHUFFLE MASTER, INC.
1106 PALMS AIRPORT DRIVE
LAS VEGAS NV 89119

In re Application of	:	
Dunn	:	
Application No. 10/891,969	:	DECISION
Filing Date: 19 July, 2002	:	
Attorney Docket No.: PA0717.AP.US	:	

This is a decision on the petition filed on 25 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 3 November, 2005, with reply due under a non-extendable deadline on or before 3 February, 2006;
- the instant application went abandoned after midnight 3 February, 2006;
- the Office mailed a Notice of Abandonment on 28 March, 2006;
- it appears that Petitioner's attempt to pay the fees due on 27 January, 2006, failed because

the payment was not present with the fee transmittal;

- on 25 April, 2006, Petitioner filed the instant petition (with fee), reply in the form of fees due, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt,[6] 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

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

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.

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

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

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

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Paper No: __

PHILIP H. SCHLAZER
ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Lowrey, et al.	:	
Application No. 10/891,970	:	ON PETITION
Filed: 15 July, 2004	:	
Attorney Docket No. 2024.49	:	

This is a decision on a petition filed on 13 April, 2006, 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 indicates:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on19 July, 2005, with reply due absent extension of time on or before 19 August, 2005;
- the instant application went abandoned by operation of law after midnight 19 August, 2005;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- Petitioner filed the instant petition on 13 April, 2006, with fee, and, *inter alia*, reply in the form of an election, and made the statement of unintentional delay–thus, Petitioner

appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) 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

[7] 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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PHILIP H. SCHLAZER
ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS, MI 48309

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OFFICE OF PETITIONS

In re Application of	:	
Tyler Lowery, et al.	:	
Application No. 10/891,970	:	DECISION ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 2024.49	:	

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

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kevin Bray 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. If Mr. Bray desires to receive correspondence regarding this file, the appropriate power of attorney and/or change of correspondence address documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Bray; however, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fees on or before December 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 25, 2007, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 24, 2008.

Petitioner states that a timely reply was filed by facsimile transmission on September 28, 2007, which included the Fee Transmittal. Petitioner has submitted (1) a copy of an Auto-Reply Facsimile Transmission, showing receipt of Part B – Fee(s) Transmittal on September 28, 2007, (2) a copy of

the previously submitted reply, which bears a certificate of mailing or transmission dated September 28, 2007 and (3) a transmission verification report.

The issue fee transmittal acknowledged as having been received in the USPTO on September 28, 2007 is not of record in the application file and has not been located to date. However, the evidence is convincing that the issue fee transmittal was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on September 28, 2007.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KEVIN BRAY
OVONYX, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS, MI 48309

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TECHNOLOGY CENTER 3600

WAGNER, MURABITO & HAO, LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

In re application of Arthur Lange, et al. Application No. 10/892,002 Filed: July 14, 2004 For: METHOD AND SYSTEM FOR CONTROLLING A MOBILE MACHINE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on May 23, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (C) and (E) above. Regarding item (C), the petition does not include a statement that a pre-examination search was made, listing the field of search. Regarding item (E), the petition does not include a detailed discussion of how the claimed subject matter is patentable over <u>each</u> of the references located in applicant's search, and cited in the Information Disclosure Statement filed May 23, 2005.

For the above stated reasons, the petition is **<u>DISMISSED.</u>**

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/03/05

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TECHNOLOGY CENTER 3600

WAGNER, MURABITO, & HAO, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

In re application of	:	**DECISION ON PETITION**
Arthur Lange et al.	:	**TO MAKE SPECIAL**
Application No. 10/892,002	:	**(ACCELERATED**
Filed: July 14, 2004	:	**EXAMINATION)**
For: METHOD AND SYSTEM FOR CONTROLLING A MOBILE MACHINE		

This is in response to the resubmitted petition filed on December 09, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 01/05/06

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

Mail Date: 04/21/2010

Applicant	: Diego Ernesto Crivelli	: DECISION ON REQUEST FOR
Patent Number	: 7623797	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/892,010	: 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 **643** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, Popeo, P.C.
The Chrysler Center, 24th Floor
666 Third Avenue
New York, NY 10017

Mail Date: 05/04/2010

Applicant	: Mohamed Samy El-Hennawey	: DECISION ON REQUEST FOR
Patent Number	: 7619995	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/892,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1464** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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BOSTON, MA 02110

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In re Application of	:	
Jing X. Kang	:	
Application No. 10/892,023	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO WITHDRAW
Attorney Docket No. 12598-002US2	:	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 18, 2005.

The petition 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 Frank R. Occhiuti 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 of record has been changed and the new correspondence address is the address indicated below.

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

This application is being referred to Technology Center AU 1743.

David Bucci
Petitions Examiner
Office of Petitions

cc: JING X. KANG
28 MEADOWOOD ROAD
NORTH ANDOVER, MA 01845

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Mail Date: 04/22/2010

Applicant	: Debasis Bhattacharyya	: DECISION ON REQUEST FOR
Patent Number	: 7604731	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/892,024	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GOODWIN PROCTER L.L.P
599 LEXINGTON AVE.
NEW YORK, NY 10022

COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Matthias Gerlach, et al. :
Application No. 10/892,040 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No.: 103832-542NP :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1626 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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CHARLES E. BAXLEY
HART, BAXLEY, DANIELS & HOLTON
90 JOHN STREET, THIRD FLOOR
NEW YORK NY 10038

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MAR 01 2010

In re Application of	:	
Ray-Hua Horng, et al.	:	
Application No. 10/892,044	:	NOTICE
Patent No. 7,319,248	:	
Filed: January 15, 2008	:	
Attorney Docket No. 14709 B (CFP-9303)		

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

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

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LOWE HAUPTMAN HAM & BERNER, LLP**
1700 Diagonal Road, Suite 310
Alexandria, VA 22314

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Alexandria, VA 22313-1450
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PEARL COHEN ZEDEK, LLP
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Hillel Weinstein et al.	:	
Application No. 10/892,052	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 13071/1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 28, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of one of the applicant's drivers license proving that he 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 2623 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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HAMRE, SCHUMANN, MUELLER & LARSON
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

In re Application of	:	
Hidenori Wada et al	:	
Application No. 10/892,066	:	ON PETITION
Filed: July 14, 2004	:	
Attorney Docket No. 10873.772USD2	:	

This is a decision on the petition, filed July 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 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 2627 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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NOV 09 2005

TECHNOLOGY CENTER 3600

TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE AZ 85255-9603

In re Application of:
DuBay et al.
Serial No. 10/892,083
Filed: July 14, 2004
For: SYSTEMS AND METHODS HAVING A POWER SUPPLY IN PLACE OF A ROUND OF AMMUNITION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is a decision on the petition filed January 04, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirement for granting special status under this section is a statement explaining how the invention contributes to countering terrorism. A fee is no longer required for this petition.

The petition states that the invention will contribute to countering terrorism by providing a weapon system that when utilized against a terrorist would render the terrorist immobilized for a given amount of time. This statement is a general conclusion and does not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism.

Furthermore, petitioner's invention, based on the disclosure, deals more with civil law enforcement and military crowd control rather than counter terrorism. In fact, no mention of counter terrorism is set forth in applicant's disclosure. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg 11/1/05

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

In re Application of	:	
Hiroshi Shiho et al	:	
Application No. 10/892,096	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 256062USO	:	

This is a decision on the petition, filed August 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 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 1765 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 : August 24, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hiroshi Shiho et al
Application No. :10/892,096
Filed :July 16, 2004

The above-identified application has been assigned Patent No. 7,105,450 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. 7,105,450 to Hiroshi Shiho et al of Japan for CHEMICAL MECHANICAL POLISHING PAD AND CHEMICAL MECHANICAL POLISHING METHOD 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

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CERMAK & KENEALY LLP
ACS LLC
515 EAST BRADDOCK ROAD
SUITE B
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kiyachko et al :
Application No. 10/892,113 :
Filed: July 16, 2004 :
Attorney Docket No. US-170 :

This is a decision on the petition, filed April 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1652 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

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MAR 21 2007

OFFICE OF PETITIONS

Applicant: Peng
Appl. No.: 10/892,118
Filing Date: July 16, 2004
Title: PACKET-AWARE TIME DIVISION MULTIPLEXING SWITCH WITH DYNAMICALLY CONFIGURABLE SWITCHING FABRIC CONNECTIONS
Attorney Docket No.: 91436-393
Pub. No.: US 2006/0013133 A1
Pub. Date: January 19, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 15, 2006, for the above-identified application .

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claim 2 wherein the phrase "The apparatus of claim 1 wherein said ingress port flyer comprises" is misprinted as "The apparatus of claim 1 wherein said ingress port further comprises."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor wherein the phrase "further comprises" has been changed to "flyer comprises" in the preamble of dependent claim 2 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application is due to the poor quality of the text in the application. The text in the specification and claims is not clear, which may be due to faxing the application

[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).

papers. The quality of the text is poor, as it is small and blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52. The typographical error also does not affect the understanding of the application, as the phrase is a well known phrase. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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 in the application is small, blurry and not clear, 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 to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
Yoshinori Hayashi et al	:	
Application No. 10/892,152	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 255654US-2 CONT	:	

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2861 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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JAN - 5 2006

BELL, BOYD, & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

In re Application of	:
Nancy Puglia et al	:
Serial No.: 10/892,153	: PETITION TO MAKE SPECIAL
Filed: July 16, 2004	:
Attorney Docket No.: 116591-002	:

This is in response to the petition filed December 27, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, I. Therefor the petition is **DENIED**.

M.P.E.P. 708.02, I, states:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicants' petition satisfies part (A) and (B) above. However the statement in the last paragraph of page 1 that applicants will file a New Drug Application (NDA) upon allowance of the patent does not satisfy part (C) above. NDA approval may take a few months or many years to acquire in order to permit manufacture to commence. Thus "immediate" manufacture is not here contemplated. Applicants also fail to satisfy part (D) by failing to state that a search of the prior art has been made or that applicants have a good knowledge of the prior art. The statement that "all relevant references are of record" does not meet the criteria set forth.

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

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

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

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DEC 1 4 2005

Technology Center 2100

In re Application of: SONODA, et al.
Application No. 10/892,187
Filed: July 16, 2004
For: NAS WITH WORM FUNCTION

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

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

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

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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
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caf

10-5-07

In re application of	:	
BYUNG-HEE SOHN et al.	:	DECISION ON
Serial No. 10/892,197	:	PETITION
Filed: July 16, 2004	:	
For: ELECTROLUMINESCENT DEVICE USING	:	
METAL NANOPARTICLES	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 filed September 5, 2007.

On December 14, 2006 a non-final action was mailed. Applicants responded to the non-final rejection on March 6, 2007. On May 17, 2007, a final office action was mailed to Applicants. Applicants responded to this office action with a response after final that was filed on July 13, 2007. The response included a certified translation of Applicants' Korean Priority application No. 10-2003-0075800. The examiner refused entry of the after final in an advisory action mailed July 26, 2007 because applicants failed to provide a showing as to good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

On September 5, 2007, the instant petition under 37 CFR 1.181 was filed to request the entry of the certification of an English language translation of Applicants' Korean Priority application No. 10-2003-0075800.

DECISION

The office action mailed December 14, 2006 included a 35 USC 103 rejection over Kim (U.S. Patent No. 6,995,505) which has a U.S. filing date of October 31, 2003. This date is prior to applicants' U.S. filing date which is July 16, 2004. Thus, in order to remove Kim as a reference, applicants would have had to file a certified translation of their foreign priority document to perfect the foreign priority claim. In response to the office action, applicants instead argued that Kim does not constitute prior art under 35 USC 102(e). This, however is not the case. Until the foreign priority is perfected, Kim is a valid 102(e) reference. The examiner then properly made the following office action final. The certified translation was then filed after final and the examiner refused entry of the after final in an advisory action mailed July 26, 2007 because applicants failed to provide a showing as to good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

Applicants argued that:
(1) The examiner did not either suggest or require an English translation until issuing the final office action. This is not persuasive because an intermediate reference, Kim, was cited to reject the claims. The translation is one way to overcome the rejection.

(2) The examiners reliance upon 37 C.F.R. 1.116(e) presumes that Applicant's English language translation and the certification of the translator constitute and "affidavit or other evidence", rather than the statutory required response to the examiner's action. This is not persuasive. The translation is clearly evidence that the claimed invention is supported by the foreign priority document. Further, there is no requirement for a translation. If the 103 rejection based on the Kim reference was proven

to be invalid because the reference did not teach the claimed limitations, the translation would not be necessary.

(3) Applicants' right to claim priority and to "perfect" that claim by providing an English language translation and certification from the translator is preserved under 37 C.F.R. 1.55, and is not negated or otherwise impaired by anything written under 37 C.F.R. 1.116(e). This is not persuasive. The section of 37 C.F.R. 1.55 (2) cited by applicants in the petition makes no mention of translations or perfecting the priority.

(4) MPEP section 2136.03 explains the rationale denying the availability of Kim as prior art under 102(e). This argument is not persuasive. The citations cited in the petition do not appear to indicate that Kim does not constitute prior art. Rather, the citations indicate that Kim is effective prior art as of its U.S. filing date. The examiner is relying on Kim's U.S. filing date. The citation also indicates that applicant may be able to overcome the 102(e) reference if it is proven that applicant is entitled to the foreign priority date. Since applicants cited this section in response to the non-final action it is clear that they were aware that they had to prove that they were entitled to the foreign priority date. However, in response to the non-final rejection, no such proof was submitted.

Accordingly, the petition for entry of the certification of an English language translation of Applicants' Korean Priority application No. 10-2003-0075800 is **DENIED.**

Jacqueline M. Stone

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

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/892,197	07/16/2004	Byung-Hee Sohn	P57124	1812

7590 11/16/2007

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Washington, DC 20005

EXAMINER
THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
11/16/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Mailed: 11-16-07

In re application of	:	
Byung-Hee Sohn et al.	:	DECISION ON
Serial No. 10/892,197	:	PETITION
Filed: July 16, 2004	:	
For: Electroluminescent Device using Metal Nanoparticles		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE NOTICE of NON-COMPLIANT AMENDMENT mailed October 24, 2007.

DECISION

A review of the circumstances indicates that the notice of October 24, 2007 was not proper.

The petition for withdrawal of Notice of Non-Compliant Amendment is **GRANTED.**

The requirement for a Notice of Non Compliant Amendment is withdrawn.

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

Robert E. Bushnell
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Washington DC 20005

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BREINER & BREINER, L.L.C.
P.O. BOX 320160
ALEXANDRIA VA 22320-0160

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OFFICE OF PETITIONS

In re Application of
Katie Cavanaugh et al.
Application No. 10/892,205
Filed: July 16, 2004
Attorney Docket No. 6156

ON PETITION

This is a decision on the petition filed March 23, 2009 to withdraw the holding of abandonment which is being treated under 37 CFR 1.181.

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

A decision was rendered by the Board of Patent Appeals and Interferences on January 29, 2009. A Notice of Abandonment was mailed March 20, 2009 citing abandonment in view of the decision by the Board of Patent Appeals and Interference rendered on January 29, 2009 and because the period for seeking court review of the decision had expired, thus there were no allowed claims.

Petitioner argues that the period for response had not yet lapsed as the response for seeking court review is two months from the date of the decision.

A review of the file reveals that petitioner is correct, and that the Notice of Abandonment mailed March 20, 2009 was mailed prematurely in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3711 for treatment of the Request for Rehearing filed March 30, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Jose Wei
PO Box No. 6-57
Junghe, Taipei 235
TAIWAN

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NOV 07 2006
OFFICE OF PETITIONS

In re Application of Wei	:	
Application No. 10/892,209	:	Decision on Petition
Filing Date: July 16, 2004	:	
For: Wire Moving Control Device of	:	
Earphone Set	:	

This is a decision on the petition filed July 19, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Office action mailed December 15, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on July 25, 2006.

Petitioner contends the Final Office action was never received.

Petitioner relies on a local agent, Vincent Lin, to receive correspondence from the USPTO.

Per a petition filed on June 28, 2006, in another application, at least 13 petitions were pending based on allegations of non-receipt of Office actions by Vincent Lin.

The history of "non-receipt" of Office actions indicates Office actions may have been lost after receipt rather than lost in the mail. Therefore, the petition will not be granted.

Any request for reconsideration should fully discuss <u>all</u> petitions filed within the last two years based on assertions of non-receipt of Office actions at Lin's address.

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

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b) rather than filing a request for reconsideration under 37 CFR 1.181. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small 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. A copy of a blank petition form is enclosed for petitioner's convenience.

Petitioner may wish to use Private PAIR in the future to help monitor correspondence mailed for the instant application. Private PAIR is the United States Patent and Trademark Office's (USPTO's) is the USPTO's safe and simple web-based means of electronically viewing the status of and documents for one's patent applications. Private PAIR can be used to securely check the progress of pending patent applications any time. Additional information on PAIR can be found at http://www.uspto.gov/ebc/pair_help.html. Questions regarding PAIR should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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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Jose Wei
PO Box No. 6-57
Junghe, Taipei 235
TAIWAN

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APR 0 5 2007

OFFICE OF PETITIONS

In re Application of Wei :
Application No. 10/892,209 :
Filing Date: July 16, 2004 :
For: Wire Moving Control Device of :
Earphone Set :

Decision on Petition

This is a decision on the petition filed December 13, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 Office action mailed December 15, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on July 25, 2006.

Petitioner contends the Final Office action was never received.

The showing of record is sufficient to prove non-receipt of the Office action.

Technology Center Art Unit 2615 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 non-final Office action will be set to run from the mailing date of the new non-final 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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JAN 11 2006

TECHNOLOGY CENTER 2100

In re Application of MIZUNO et al	:	
Application No.: 10/892,213	:	DECISION ON PETITION
Filing Date: July 16, 2004	:	FOR ACCELERATED
For: METHOD AND APPARATUS FOR	:	EXAMINATION UNDER
SETTING STORAGE GROUPS	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed December 15, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Note that the discussion must point out how the claimed subject matter is patentable over the references. Other than the node information acquisition step, the petition states that essentially all of the limitations of the independent claims are not taught or suggested by the cited prior art. Although the petition does not specifically identify the node information acquisition step as a feature which is not taught by the cited prior art, the registration step recites the use of acquired node information and thus requires a step of node information acquisition. Therefore, applicant in effect states that all of the limitations of the independent claims are not taught or suggested. However, a statement that the entirety of an independent claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references.

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

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

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

Pinchus M. Laufer

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

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

APR 2 1 2006

Technology Center 2100

In re Application of:
J. MIZUNO et al.
Application No. 10/892,213
Filed: July 16, 2004
For: METHOD AND APPARATUS FOR SETTING STORAGE GROUPS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 13 March 2006 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **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 13 March 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

SPE: P. Vo

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/07

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/842,229 Patent No.: 7150090

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

PETER VO
SUPERVISORY PATENT EXAMINER
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Taizo Maeda, et al.
Application No. 10/892,241
Filed: July 16, 2004
For: **OPTICAL TRANSMISSION DEVICE USING A WIDE INPUT DYNAMIC RANGE OPTICAL AMPLIFIER**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed June 1, 2005 under 37 CFR §1.181(a) to withdraw holding of abandonment. No fee is required.

The application was held abandoned in response to a letter of express abandonment. A Notice of Abandonment was mailed May 18, 2005.

Petitioner states that there is no record in the file maintained by the attorney of record of having mailed any such letter of express abandonment and further states that it is believed that neither the assignee, nor the applicants submitted such letter.

A review of the file record finds that an attorney of record in a different application with a serial number similar to that of the instant application, placed the wrong serial number on the letter of express abandonment he meant to file for that application. Due to that error, the Office inadvertently matched the letter of express abandonment to the instant application and therefore, erroneously mailed a Notice of Abandonment in the instant application.

The Patent and Trademark Office regrets any inconvenience to Petitioner. The Letter of Express Abandonment has been moved to the correction application file. Accordingly, in the instant application, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of Grzegorz Stachowiak Application No. 10/892,250 Filed: July 16, 2004 Attorney Docket No. 3691-739	: : : : :	DECISION ON PETITION

This is a decision on the "PETITION PURSUANT TO 37 CFR § 1.182," filed October 4, 2004, requesting that the above-identified application be accorded a filing date of July 16, 2004 by virtue of an incorporation by reference statement, or, in the alternative, of October 4, 2004, the later date of submission of drawing figures 1-17.

The petition is **DISMISSED**.

Application papers in the above-identified application were deposited on July 16, 2004. However, on September 24, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, figures 7-17 described in the specification appeared to have been omitted.

In response, the present petition was filed, requesting that Figures 1-17 enclosed with the petition be entered and that the instant application be given a filing date no later than the date of filing of the attached Figures 1-17. Petitioner states that a declaration referring to the drawing figures was filed in the parent application. Applicant further notes that the parent application is incorporated by reference in the instant application, and the parent clearly includes Figs. 1-17.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a

nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner does not assert that the missing drawing figures were deposited on July 16, 2004[1]. Although petitioner indicates that according of a filing date based on the later date of receipt of the drawing figures would be acceptable, petitioner also makes an argument that the application is entitled to the earlier filing date based on an incorporation by reference statement.

However, no petition under 37 CFR 1.182 is necessary to seek to amend the application to include drawing figures present in a parent application that has been incorporated by reference. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded as the petition was not necessary to correct any error on the part of the Office.

It is noted that the application transmittal letter identified this application as a division of Application No. 10/024,613 and specifically incorporates by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the 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.

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figures 1-17 are not new matter if they were a part of the disclosure of the prior application.

Thus, a preliminary amendment to amend the application to include figures 1-17 should be filed prior to the first Office action on

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[1] Petitioner indicates that it was intended that the application as filed include Figures 1-6 <u>and</u> Figures 1-17 from the parent application.

the merits to avoid further delay in the prosecution of this application. This amendment will be considered by the primary examiner.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been returned to OIPE for further processing with a filing date of July 16, 2004, including:

an indication in Office records that 6 sheets of drawings (figs. 1-6) were present on filing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Oakland, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Kanji Ishihara	:	DECISION ON PETITION
Application No. 10/892,258	:	TO WITHDRAW
Filed: July 14, 2004	:	FROM RECORD
Attorney Docket No. ALPSP163	:	

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 19, 2008.

The request is **APPROVED**.

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

The request was signed by James E. Austin, on behalf of Haruo Yawata.

Haruo Yawata has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

In re Application of: KANEDA, et al.
Application No. 10/892,275
Filed: July 16, 2004
For: DATA MIGRATION METHOD AND A DATA MIGRATION APPARATUS

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

This is a response to the petition filed 19 August 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

ds

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OFFICE OF PETITIONS

In re Application of Cook et al. :
Application No. 10/892,276 :
Filing Date: July 15, 2004 :
Attorney Docket No. 004974.01128 :

Decision on Petition

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 4, 2006. A Notice of Abandonment was mailed on September 7, 2006.

The instant petition requests revival of the application.

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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REED SMITH LLP
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3110 FAIRVIEW PARK DRIVE
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In re Application of: JIANG et al.
Application No. 10/892,282
Filed: July 16, 2004
For: STORAGE CONTROL SYSTEM AND OPERATING METHOD FOR STORAGE CONTROL SYSTEM

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

This is a response to the petition filed 10 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 10 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. The statement purporting to distinguish independent claim 1 from each reference in effect recites essentially all of the limitations of claim 1. That is, the statement purports that essentially the entirety of claim 1 is not taught by any of the references deemed most closely related. Such a statement is not a sufficient detailed description. Also, the statement purporting to distinguish each reference over claim 9 is unclear. This statement recites "switching the path from the device connector to the bypass thereof and accessing a device that exists further downstream via the bypass of the device connector exhibiting the anomaly." However, it is not clear what is meant by "the device connector exhibiting the anomaly" since this is the first reference to an "anomaly." It is noted that if the statement regarding claim 9 were corrected to overcome this deficiency, it likely would then state that essentially the entirety of claim 9 is not taught by any of the references deemed most closely related, which as noted above would not be a sufficient detailed description.

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

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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: JIANG, et al.
Application No. 10/892,282
Filed: July 16, 2004
For: STORAGE CONROL SYSTEM AND OPERATING METHOD FOR STORAGE CONTROL SYSTEM

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

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

Applicants' submission filed 17 October 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

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

In re Application of: SAIKA et al.
Application No. 10/892,293
Filed: July 16, 2004
For: CONTROL SYSTEM OF NAS, BACKUP METHOD, AND PROGRAM THEREFOR

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

This is a response to the petition filed 05 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. The statement for each of the references deemed most closely related that the highlighted limitations (the highlights appearing in bold underlining on pages 7-9 of the petition) are not taught or suggested by the reference 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. In addition to the statement discussed above, the petition also identifies a first feature of independent claim 1, a second feature of independent claim 9, a third feature of independent claim 17, and a fourth feature of independent claim 20. There is also a statement for each of the references deemed most closely related that the reference does not teach or suggest each of the numbered features. The highlighted features are essentially subsets of the numbered features. The petition is potentially confusing since the highlighted features and the numbered features are of different scope and one could argue that it is not clear whether the highlighted features are intended to distinguish the references or whether the numbered features are intended to distinguish the references. Accordingly, it is suggested that any future petitions be prepared so that there is no such potential confusion.

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

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

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

In re Application of
Dwayne Kincard
Application No. 10/892,317
Filed: July 16, 2004
Attorney Docket No: **LDG- 04-1**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed August 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 15, 2004, for failure to timely reply to the Notice to File Corrected Application Papers mailed on September 13, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed November 12, 2004.

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged.

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

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

Patricia Faison-Ball

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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OFFICE OF PETITIONS

Applicant: Rolat-Corvol et al.
Appl. No.: 10/892,334
Filing Date: Jully 16, 2004
Title: COMPOSITION COMPRISING AT LEAST ONE CONDUCTIVE POLYMER AND AT LEAST ONE RIGID NON-FILM-FORMING PARTICLE, AND PROCESSES FOR THE USES THEREOF
Attorney Docket No.: 5725.1362-00
Pub. No.: US 2005/0058676 A1
Pub. Date: March 17, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 16, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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OFFICE OF PETITIONS

Applicant: Rollat-Corvol et al.
Appl. No.: 10/892,336
Filing Date: July 16, 2004
Title: COMPOSITION COMPRISING AT LEAST ONE CONDUCTIVE POLYMER AND AT LEAST ONE REDUCING AGENT, AND PERMANENT-SHAPING PROCESS FOR THE USE THEREOF
Attorney Docket No.: 05725.1359-00
Pub. No.: US 2005/0055781 A1
Pub. Date: March 17, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 17, 2005, for the above-identified application.

The request is granted.

At least one of the errors may have been due to the quality of the text in the application. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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OFFICE OF PETITIONS

Applicant: Rollat-Corvol et al.
Appl. No.: 10/892,337
Filing Date: July 16, 2004
Title: COMPOSITION COMPRISING AT LEAST ONE CONDUCTIVE POLYMER AND AT LEAST ONE OXIDIZING AGENT, AND PROCESS FOR TREATING KERATIN FIBERS EMPLOYING IT
Attorney Docket No.: 05725.1358-00
Pub. No.: US 2005/0055782 A1
Pub. Date: March 17, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 17, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. 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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HAMILTON IP LAW, PC
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 120
DAVENPORT IA 52801

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SEP 17 2008
OFFICE OF PETITIONS

In re Application of	:	
STANDAL et al.	:	
Application No. 10/892,339	:	DECISION ON PETITION
Filed: 07/14/2004	:	
Attorney Docket No. SRE-101	:	

This is a decision on the petition under 37 CFR 1.181, filed June 26, 2008,[1] and resubmitted on July 16, 2008, to withdraw the holding of abandonment in the above-identified application.

The application became abandoned for failure to respond timely to the nonfinal Office action, mailed on November 13, 2007, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the Office held the application abandoned and mailed a Notice of Abandonment on June 26, 2008.

Petitioner asserts that he filed a timely reply to the nonfinal Office action via facsimile transmission on Monday, April 14, 2008. In support of the assertion, petitioner supplied a copy of the reply in the form of an amendment and a request for an extension of time for response within the second month, which included a certificate of facsimile transmission under 37 CFR 1.8 dated April 14, 2008. Additionally, petitioner provided a copy of the sending unit's transmission report and the USPTO's Auto-Reply Facsimile Transmission, acknowledging receipt of 20 pages (including the cover sheet) in USPTO on April 14, 2008.

37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding

[1] Petitioner placed an incorrect application number, 10/891,339, on the transmittal sheet and the petition of June 26, 2008. This error caused the Office to charge petitioner's credit card for the $230.00 extension of time fee in both Application Nos. 10/891,339 and 10/892,339. The Office will refund petitioner's credit card for the duplicate charge of $230.00 in Application No. 10/891,339.

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

In view of the above, the required reply is considered timely filed pursuant to 37 CFR 1.8. Accordingly, the petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn. The application will be restored to pending status.

This matter is being referred to Technology Center Art Unit 3635 for review of the amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BRIAN J. LAURENZO
DORSEY & WHITNEY LLP
SUITE 3900
801GRAND AVENUE
DES MOINES IA 50309

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OCT 01 2008

OFFICE OF PETITIONS

In re Application of	:	
Brent E. CURTIS	:	
Application No. 10/892,342	:	DECISION ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. **474051-3**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2007, 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 January 29, 2007, 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 June 30, 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 final Office action of January 29, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3618 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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P.O. BOX 8910
RESTON VA 20195

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OCT 27 2006

OFFICE OF PETITIONS

In re Application of Andreas Meyer Application No. 10/892,347 Filed: July 16, 2004 Attorney Docket No. 32860-000757/US	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of July 13, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2882.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/892,366	07/16/2004	Takuya Seko	Q82092	1477

65565 7590 03/25/2008
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER
CHANG, CELIA C

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
03/25/2008	PAPER

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

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

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MAR 2 5 2008

SUGHRUE-265550
2100 PENNSYLVANIA AVE.
NW WASHINGTON, DC 20037-3213

In re Application of:
Seko et al.
Serial No.: 10/892,366
Filed: July 16, 2004
Attorney Docket No.: Q82092

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed March 14, 2008, requesting that the finality of the Office action of January 15, 2008 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on August 1, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-10 and 12-18 were pending in the application. Claims 6, 7 and 16-18 were withdrawn from examination on the merits, leaving claims 1-5, 8-10 and 12-15 for examination. The examiner rejected claims 1-5, 8-10 and 12-15 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 7,166,590; rejected claim 13 under 35 U.S.C. 112, second paragraph; and rejected claims 1 and 12-15 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

In reply to the non-final Office action of August 1, 2007, applicants filed remarks and arguments, along with an amendment on November 1, 2007 which included the cancellation of claims 13 and 16, and amendments to claims 1, 4, 5, 12, 14, 15, 17 and 18. The amendment of claims 1, 12, 14, 15 and 18 included deletion of the language 'or a hydrate thereof.'

On January 15, 2008, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-10, 12, 14-15 and 17-18 were pending. Claims 6, 7, 17 and 18 remained withdrawn from examination on the merits, as these claims were directed toward a non-elected invention, leaving claims 1-5, 8-10, 12 and 14-15 for examination on their merits. This corrects an error made by the examiner on the Office Action

Summary form accompanying the final Office action which indicated that claims 1-5, 8-10 and 12-15 were rejected. The examiner rejected claims 12, 14 and 15 under 35 U.S.C. 112, second paragraph for being indefinite and further rejected claims 1-5, 8-10 and 12-15 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the issued claims of US 6,605,608. Here, it is noted that claim 13 was not pending at the time the final Office action was mailed, and hence, the examiner should have omitted claim 13 from the rejection.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on March 14, 2008, requesting that the finality of the Office action of January 15, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on March 14, 2008, applicants argue that the new rejection over claims 12, 14 and 15 for the recitation of 'as an active ingredient....derivative' under 35 USC 112, second paragraph, for being indefinite, precludes the finality of said Office action because the language rejected by the examiner was present in claims 12, 14 and 15 at the time of the non-final Office action. Thus, applicants contend that the examiner should have placed the ground of rejection over the language 'as an active ingredient....derivative' at the time the non-final Office action was mailed and conclude that this new ground of rejection was not necessitated by applicants amendment submitted on November 1, 2007:

> ...the Examiner issued a final Office Action, dated January 15, 2008, in which the Examiner set forth a new grounds for rejection against claims 12, 14 and 15. In the Office Action, the Examiner herself stated that the rejection was a new one. For the first time in the final Office Action dated January 15, 2008, the Examiner rejects claims 12, 14 and 15 because of the recitations of "an active ingredient" and "derivative". Yet, this new rejection is clearly directed to terms which existed in the claims as originally filed, as discussed above. Thus, Applicants' amendments have not necessitated this new ground of rejection.

Therefore, the new rejections rendered by the examiner under 35 USC 112, second paragraph, over claims 12, 14 and 15 in the final Office action of January 15, 2008 could have, and should have been made in the non-final Office action. These rejections were not necessitated by applicants' amendments to the claims. It is thus decided that applicants have not been provided a fair opportunity to rebut said rejections.

Applicants' arguments are persuasive that the final Office action issued January 15, 2008 was premature and the finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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Melanie McCollum
Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

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OFFICE OF PETITIONS

In re Application of

Jean-Noel Thorel et al.
Application No. 10/892,376
Filed: July 16, 2003
Attorney Docket No. 039818.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The address of record remains unchanged.

The attorneys and/or agents associated with the firm Oliff & Berridge remain the practitioners of record.

There is no outstanding Office action at this time.

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

for David Bucci
Petitions Examiner
Office of Petitions

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NIXON & PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004-2128

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SEP 1 4 2005

OFFICE OF PETITIONS

In re Application of
Bradley A. Ozenberger et al
Application No. 10/892,379
Filed: July 16, 2004
Attorney Docket No. 031896-067300

: 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 June 29, 2005, 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 and Application Data Sheet (ADS).

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 application as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate PCT Application No. PCT/US99/21621 (filed October 13, 1999) was filed within twelve months

of the filing date of prior-filed provisional Application No. 60/104,104, which was filed on October 13, 1998.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in an ADS, 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 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 this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1649 for consideration by the examiner of the claim for benefit of priority to the prior-filed applications noted in the ADS and amendment filed June 29, 2003.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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Paper No.

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of Kristiansen Application No. 10/892,393 Patent No.: 7,514,085 Filed: July 16, 2004 Issued: April 7, 2009 Attorney Docket No.: 0088562-017US0 Title: IMMUNE MODULATING COMPOUNDS FROM FUNGI	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 11, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly. The deficiency payment has been deducted from Petitioner's Deposit Account.

This application 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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N. W.
Washington, DC 20005

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
George Olaru, et al.	:	
Application No. 10/892,397	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 2107.1690002/TUM/MJM	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 24, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

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

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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Mr. Paul Matysek
365 Beresford Avenue
Toronto, Ontario, M6S 3B6
CANADA

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JAN 28 2005
OFFICE OF PETITIONS

In re Application of
George Olaru; Denis Babin; Paul Matysek; and Neil Dewar
Application No. 10/892,397
Filed: July 16,2004
For: METHOD AND APPARATUS FOR DISTRIBUTING MELT IN A MULTI-LEVEL STACK MOLD

Dear Mr. Matysek:

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

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

Telephone inquiries regarding this communication should be directed to Marianne Jenkins at (571) 272-3223. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Sterne, Kessler, Goldstein & Fox, PLLC
1100 New York Avenue, N. W.
Washington, DC 20005

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FROM DIRECTORS OFFICE

OCT 05 2004

TECHNOLOGY CENTER 3600

THEODORE O. HAAS
46 MEADOWS LANE
HAVERFORD, PA 19041

In re application of Theodore O. Haas Application No. 10/892,415 Filed: July 15, 2004 For: INEXPENSIVE LIGHTWEIGHT SINGLE-BLADE SNOWPLOW	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 15, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed declaration, drivers license and a passport indicating Mr. Haas is at least 65 years of age.

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

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

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

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

KJD/slb: 9/28/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THEODORE O. HAAS
46 MEADOWS LANE
HAVERFORD PA 19041

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FEB 12 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Haas :
Application No. 10/892,415 :
Filed: July 15, 2004 :
Attorney Docket No. N/A :
For: INEXPENSIVE LIGHTWEIGHT
SINGLE-BLADE SNOWPLOW

This is a decision on the petition under 37 CFR 1.181, filed December 13, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. Applicant obtained a one month extension of time under the provisions of 37 CFR 1.136(a) on July 10, 2007. Applicant filed an amendment after final on August 14, 2007 (certificate of mailing date August 9, 2007), which failed to place this application in *prima facie* condition for allowance, as was explained in the September 19, 2007Advisory Action. Accordingly, the application became abandoned on August 11, 2007.

Petitioner argues that the holding of abandonment should be withdrawn because a timely response was filed within four months of the mailing of the final Office action and the Notice of Abandonment states that the application became abandoned for failure to file a timely response to the September 19, 2007 Advisory Action. Petitioner assumes that the September 19, 2007 Advisory Action started a customary three month period for response.

Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE.

To be a proper reply, an amendment after final must eliminate all of the Examiner's rejections, and thus place the case in *prima facie* condition for allowance.

Petitioner's amendment after final, filed August 14, 2007 (certificate of mailing date August 9, 2007) failed to eliminate all of the Examiner's rejections, as was stated in the Advisory Action of September 19, 2007.

An Advisory Action does **not** restart the prosecution of the application. It is noted that the Advisory Action states that the period for response expires three months (extensions possible) from the mailing of the final rejection. The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

The admittedly confusing contents of the Notice of Abandonment cannot negate Office rules. The Notice of Abandonment did not set any obligations. The final rejection did.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

Petitioner is encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An

"unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 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).

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

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

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

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

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

Shirene Willis Brantley
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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THEODORE O. HAAS
46 MEADOWS LANE
HAVERFORD PA 19041

COPY MAILED

JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Haas :
Application No. 10/892,415 :
Filed: July 15, 2004 :
Attorney Docket No. N/A :
For: INEXPENSIVE LIGHTWEIGHT
SINGLE-BLADE SNOWPLOW

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181, filed April 17, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. Applicant obtained a one month extension of time under the provisions of 37 CFR 1.136(a) on July 10, 2007. Applicant filed an amendment after final on August 14, 2007 (certificate of mailing date August 9, 2007), which failed to place this application in *prima facie* condition for allowance, as was explained in the September 19, 2007Advisory Action. Accordingly, the application became abandoned on August 11, 2007.

Petitioner again argues that the holding of abandonment should be withdrawn because petitioner assumed that the September 19, 2007 Advisory Action started a customary three month period for response.

The Advisory Action of September 19, 2007 clearly states that the reply filed August 14, 2007 failed to place the application in *prima facie* condition for allowance. It clearly states that the period for reply expires 3 months from the mailing date of the final Office action.

An Advisory Action does **not** restart the prosecution of the application. The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113.

The final Office action of April 10, 2007 was the Office action to which applicant had to properly respond. The September 19, 2007 Advisory Action merely informed applicant that his amendment after final, filed August 14, 2007 (certificate of mailing date August 9, 2007), failed to place this application in *prima facie* condition for allowance. The time period to make a proper response to the April 10, 2007 final Office action was not tolled by the filing of the August 14, 2007 (certificate of mailing date August 9, 2007) amendment after final or by the mailing of the September 19, 2007 Advisory Action. The application became abandoned on August 11, 2007, which is 3 months after the mailing of the April 10, 2007 final Office action plus a one month extension of time, purchased on July 10, 2007. It is noted that applicant could have timely replied as late as October 11, 2007 by purchasing a three month extension of time.

Petitioner has yet to file a proper reply to the April 10, 2007 final Office action. Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's rejections, and thus place the case in *prima facie* condition for allowance.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

Petitioner is encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 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).

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

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

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Shirene Willis Brantley

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46 MEADOWS LANE
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SEP 3 0 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Haas :
Application No. 10/892,415 :
Filed: July 15, 2004 :
Attorney Docket No. N/A :
For: INEXPENSIVE LIGHTWEIGHT
SINGLE-BLADE SNOWPLOW

This is a decision on the reconsideration petition under 37 CFR 1.181, filed September 2, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. Applicant obtained a one month extension of time under the provisions of 37 CFR 1.136(a) on July 10, 2007. Applicant filed an amendment after final on August 14, 2007 (certificate of mailing date August 9, 2007), which failed to place this application in *prima facie* condition for allowance, as was explained in the September 19, 2007Advisory Action. Accordingly, the application became abandoned on August 11, 2007.

Petitioner argues that the holding of abandonment should be withdrawn because he believes the certificate of mailing date August 9, 2007 reply placed the application in *prima facie* condition for allowance.

As stated in the previous decision on petition, mailed June 30, 2008 : The Advisory Action of September 19, 2007 clearly states that the reply filed August 14, 2007 (certificate of mailing date August 9, 2007) failed to place the application in *prima facie* condition for allowance. It clearly states that the period for reply expires 3 months from the mailing date of the final Office action.

The time period to make a proper response to the April 10, 2007 final Office action was not tolled by the filing of the August 14, 2007 (certificate of mailing date August 9, 2007) amendment after final or by the mailing of the September 19, 2007 Advisory Action. The application became abandoned on August 11, 2007, which is 3 months after the mailing of the April 10, 2007 final Office action plus a one month extension of time, purchased on July 10, 2007. It is noted that applicant could have timely and properly replied as late as October 11, 2007 by purchasing a three month extension of time, once applicant received the Advisory Action mailed on September 19, 2007.

Petitioner has yet to file a proper reply to the April 10, 2007 final Office action. Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's rejections, and thus place the case in *prima facie* condition for allowance. The September 19, 2007 Advisory Action clearly states that the rejections stated in the final Office action of April 10, 2007 stand.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED.

Petitioner is once again encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition fee. On October 2, 2008, the petition fee will increase to $810.00.

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

For petitioner's convenience a blank form PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) is enclosed.

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

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

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

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

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

Shirene Willis Brantley

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

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

PTO/SB/64 (08-08)
Approved for use through 09/30/2008. 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.

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

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Haas :
Application No. 10/892,415 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No. N/A :
For: INEXPENSIVE LIGHTWEIGHT
SINGLE-BLADE SNOWPLOW

This is a decision on the reconsideration petition under 37 CFR 1.181, filed December 30, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. Applicant obtained a one month extension of time under the provisions of 37 CFR 1.136(a) on July 10, 2007. Applicant filed an amendment after final on August 14, 2007 (certificate of mailing date August 9, 2007), which failed to place this application in *prima facie* condition for allowance, as was explained in the September 19, 2007Advisory Action. Accordingly, the application became abandoned on August 11, 2007.

Petitioner argues that the holding of abandonment should be withdrawn because he believes the certificate of mailing date August 9, 2007 reply placed the application in *prima facie* condition for allowance.

As stated in the previous decisions on petition, mailed June 30, 2008 and September 30, 2008: The Advisory Action of September 19, 2007 clearly states that the reply filed August 14, 2007 (certificate of mailing date August 9, 2007) failed to place the application in *prima facie* condition for allowance. It clearly states that the period for reply expires 3 months from the mailing date of the final Office action. An Advisory Action does **not** restart the prosecution of the application. The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113.

The time period to make a proper response to the April 10, 2007 final Office action was not tolled by the filing of the August 14, 2007 (certificate of mailing date August 9, 2007) amendment after final or by the mailing of the September 19, 2007 Advisory Action. The application became abandoned on August 11, 2007, which is 3 months after the mailing of the April 10, 2007 final Office action plus a one month extension of time, purchased on July 10, 2007. It is noted that applicant could have timely and properly replied as late as October 11, 2007 by purchasing a three month extension of time, once applicant received the Advisory Action mailed on September 19, 2007.

Applicant argues that because the Notice of Abandonment of November 15, 2007 states that the application became abandoned for failure to file a timely reply to the September 19, 2007 Advisory action, that the Advisory action set a three month period for reply.

The admittedly confusing contents of the Notice of Abandonment cannot negate Office rules. The Notice of Abandonment did not set any obligations. The Advisory action did not set any obligations. The final rejection did.

Petitioner has yet to file a proper reply to the April 10, 2007 final Office action. Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's rejections, and thus place the case in *prima facie* condition for allowance. The September 19, 2007 Advisory Action clearly states that the rejections stated in the final Office action of April 10, 2007 stand.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED.

Petitioner is once again encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

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

To date, petitioner has filed three Rule 181 reconsideration petitions. Petitioner is on notice that continuing to file reconsideration petitions under 37 CFR 1.181 will be viewed as a deliberate act. 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 be accepted on petition.

Where an applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where an 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).

An 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).

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Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/892,473	07/16/2004	Tomoya Ikeuchi	Q82506	1520

23373 7590 01/06/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
NGUYEN, CHUONG P

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
01/06/2009	PAPER

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

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

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JAN 06 2009

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

In re Application of Tomoya Ikeuchi et al Application No. 10/892,473 Filed: July 16, 2004	: : :	DECISION ON THE PETITION REGARDING REQUEST TO WITHDRAW FINALITY

For: MAP INFORMATION PROCESSING APPARATUS, MAP UPDATE INFORMATION STORAGE MEDIUM, MAP UPDATE INFORMATION DATA STRUCTURE, MAP UPDATE INFORATION CREATING SYSTEM AND MAP INFORMATION UPDATING SYSTEM

Applicant's petition under 37 CFR 1.181, filed October 6, 2008, requests withdrawal of the finality of the Final office action mailed February 4, 2008.

The petition is **GRANTED**.

Applicant alleges that the Advisory Action mailed July 1, 2008 raises a new ground of rejection and necessitates withdrawal of the Final office action. Applicant requests that a new non-final Office action be issued.

RELEVANT BACKGROUND

On February 4, 2008 a Final Office action was issued rejecting all claims.

On April 23, 2008 an interview with applicant was held to discuss proposed amendments. Allowance of the claims was not indicated in the Interview Summary as a further search was required based on the amendments proposed.

On June 6, 2008 applicant filed an After-Final Amendment.

On July 1, 2008 an Advisory Action was issued indicating that the After-Final Amendment would be entered for purposes of appeal, but also indicating that the application was not in condition for allowance.

OPINION

A thorough review of the file wrapper has been conducted.

The above-noted Interview Summary indicates a further search would be performed but is not clear as to whether or not the existing rejections made under 35 USC 103 had been overcome. While no new grounds of rejection were made in the Advisory Action, it is noted that the Advisory Action did reference recent case law with regard to means-plus-function claim language. Because the Advisory Action did not properly reference the prior grounds of rejection, and because it raised newly added case law without a corresponding rejection existing or being newly made, it is unclear as to what the existing grounds of rejection are or whether the examiner is maintaining the previous prior art rejections.

DECISION

The petition for withdrawal of the finality is **GRANTED**.

The Finality of the office action dated February 4, 2008, but not the action itself, is withdrawn. The After-final amendment to the claims of July 1, 2008 has been entered. The application is being forwarded to the examiner. A new Office action addressing all pending claims will follow.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at (571) 272-6878.

Katherine Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

jwk/snm: 12/30/08

SM

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

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Patent No. 7,264,997	:	
Issued: September 4, 2007	:	
Application No. 10/892,483	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 16359-009001/777/SM	:	

This is a decision on the petition under 37 CFR 1.182, filed August 5, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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ERIC P. MIRABEZ
BIOARRY SOLUTIONS LLC
35 TECHNOLOGY DRIVE
WARREN NJ 07059

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OCT 05 2007
OFFICE OF PETITIONS

In re Application of
Seul et al.
Application No. 10/892,514
Filed: 07/15/2004
Attorney Docket No. OPTR-US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

On October 16, 2006, the Office mailed a Restriction Requirement, which set a period of one month or thirty day, whichever was longer, for reply. In the absence of a timely filed response, the application was held abandoned on November 17, 2006.

Petitioners stated that they filed a timely reply to the Restriction Requirement via facsimile transmission on November 10, 2006; however, they placed an incorrect application number (10/892,154) on the response.

Upon a review of the record, it appears that the application number in the heading of the response incorrectly identified Application No. "10/892,154" rather than the intended Application No. "10/892,514." The response was located in the file of Application No. 10/892,154. A review of the correspondence indicates that the USPTO received the response on November 10, 2006, but it was not timely matched with the file due to the incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application is restored to pending status. No petition fee is necessary.

The matter is being referred to Technology Center Art Unit 1631 for appropriate action on the reply filed November 10, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C.T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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7/30/08

Patent No. :7384786
Ser. No. :10892518
Inventor(s) :Toby FREYMAN et al.
Issued : 6/10/08
Title : ALIGNED SCAFFOLDS FOR IMPROVED MYOCARDIAL REGENERATION
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

MONICA A. DE LA PAZ
FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE. SUITE 2400
AUSTIN, TEXAS 78701

HR

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Boston Scientific Corporation
Patent Department (Attn: Box Annuity/MFee)
One Boston Scientific Place
Natick MA 01760-1537

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NOV 1 7 2008

OFFICE OF PETITIONS

In re Patent No. 7,384,786 :

Issue Date: June 10, 2008 :

Application No. 10/892,518 : ON PETITION

Filed: July 15, 2004 :

Attorney Docket No. BSX:303US/1040619

This is a decision on the petition filed June 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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STEFAN V. STEIN
HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of	
RYAN, DALE B.	
Application No. 10/892,529	DECISION ON PETITION
Filed: July 15, 2004	TO WITHDRAW
Attorney Docket No.. 089171.00012	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2006.

The request is **APPROVED**.

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

The request was signed by Stefan V. Stein #29,702 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.

There is an outstanding Office action mailed April 17, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: DALE B. RYAN
c/o CORLYTE PRODUCTS, INC.
324 BOB WHITE WAY
SARASOTA, FL 34236

OIPE
DEC 1 5 2005
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/892,529
Filing Date	07-15-2004
First Named Inventor	Dale Ryan
Art Unit	1733
Examiner Name	Yao, Samchuan Cua
Attorney Docket Number	089171.00012

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

Approved 4-20-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: I am leaving private practice, and the other attorneys listed on the power of attorney will continue representing Applicant

CORRESPONDENCE ADDRESS

1. ☑ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: ☐

OR

☐ Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone			Email		
Signature					
Name	Kevin A. Buford		Registration No.	34,786	
Date	12/14/05		Telephone No.	703-720-8600	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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DAVID NEWMAN CHARTERED
P.O. BOX 2728
LA PLATA MD 20646-2728

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OFFICE OF PETITIONS

In re Application of

BARAN, Paul
Application No. 10/892,532
Filed: May 31, 2005
Attorney Docket No. **GBTV03US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2007.

The request is **NOT APPROVED**.

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

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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID BARAN**
GOBACKTV, INC.
937 HAMILTON AVENUE
MENLO PARK, CA 94025

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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
10/892,541	07/14/2004	3713	1409	CYBS5937	14	117	5

CONFIRMATION NO. 9348

UPDATED FILING RECEIPT

OC000000014004908

22430
YOUNG LAW FIRM
A PROFESSIONAL CORPORATION
4370 ALPINE ROAD SUITE 106
PORTOLA VALLEY, CA 94028

Date Mailed: 10/05/2004

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

Applicant(s)

Jean-Marie Gatto, London, UNITED KINGDOM;
Sylvie Linard, London, UNITED KINGDOM;
Thierry Brunet de Courssou, Palo Alto, CA;

Assignment For Published Patent Application

Cyberscan Technology, Inc., Palo Alto, CA

Power of Attorney:

Alan Young–37970

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/01/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/892,541

Projected Publication Date: 01/19/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Integral ergonomic gaming terminal

Preliminary Class

463

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

MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Frederick Christopher Candler	:	
Application No. 10/892,559	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO WITHDRAW
Attorney Docket No. Q90774	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2009.

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

A review of the file record indicates that the power of attorney to Finnegan, Henderson, Farabow, Garrett & Dunner has been revoked by the assignee of the patent application on August 11, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **INTEGRATED DEVICE TECHNOLOGY, INC.**
6024 SILVER CREEK VALLEY ROAD
SAN JOSE, CA 95138

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DUANE MORRIS LLP – DC
505 9TH STREET
SUITE 1000
WASHINGTON DC 20004-2166

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JAN 21 2009

In re Application of	:	
Michael Al Wehrell	:	
Application No. 10/892,568	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. WEH02 011 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 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 December 19, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 19, 2008. Accordingly, the date of abandonment of this application is December 20, 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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HOWREY
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-7195

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OCT 14, 2005
OFFICE OF PETITIONS

In re Application of	:	
Anthony Molavi	:	
Application No. 10/892,572	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 11564.0072.NPUS01	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application Papers (Notice) mailed September 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 3, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 12-1322 was charged a total of $1,630.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application and $130.00 for the surcharge.

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

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

10/892574

OIPE IAP88
MAR 23 2007
PATENT & TRADEMARK OFFICE

Atty. Docket No.: 2914 (203-3801)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Heinrich

Patent No.: 6,959,851

Issued: November 1, 2005

For: SURGICAL STAPLING DEVICE WITH TISSUE TENSIONER

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

REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION TO CORRECT INVENTORSHIP UNDER 35 U.S.C. §256 AND 37 C.F.R. §1.324

In accordance with 35 U.S.C. §256, 37 C.F.R. §1.324 and M.P.E.P. §§1412.04 and 1481, it is respectfully requested that a Certificate of Correction be issued to correct the inventorship of U.S. Patent No. 6,959,851. Through unintentional error one inventor, Laszlo Csiky, was not named in the above-referenced issued patent. Duly executed statements are attached as evidence that such error arose without any deceptive intent and that all parties are in agreement and the current inventorship change is not contested.

CERTIFICATION UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 20, 2007

Dated: 3/20/07

Christopher G. Trainor

Christopher G. Trainor

03/26/2007 CCHAU1 00000008 210550 6959851
01 FC:1464 130.00 DA

Attached is a statement from Laszlo Csiky, the inventor being added, attesting to the facts that the inventorship error occurred without any deceptive intention on his part and that Laszlo Csiky is in agreement with and does not contest the correction of inventorship.

Also, attached is a statement from Russell Heinrich, the current named inventor, attesting to the fact that Russell Heinrich is in agreement with and does not contest the correction of inventorship.

In addition, attached is an executed statement from Mark Farber, an attorney and Assistant Secretary for the assignee, attesting to the facts that the assignee, Tyco Healthcare Group LP, is in agreement with and does not contest the correction of inventorship.

An Assignment, which is duly executed by both inventors described above, and an Assignment Recordation Sheet are also enclosed.

Form PTO/SB/44 making the correction is attached. The Commissioner is authorized to charge $130.00 to Deposit Account No. 21-0550 to cover the fee set forth in 37 C.F.R. § 1.17(i). Please charge any deficiency, or credit any over payment to Deposit Account No. 21-0550, without further authorization. TWO COPIES OF THIS SHEET ARE ENCLOSED.

Respectfully submitted,

Christopher G. Trainor

Christopher G. Trainor
Reg. No. 39,517
Attorney for Patentee(s)

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, New York 11747
Telephone: (631) 501-5700
Facsimile: (631) 501-3526

OIPE IAP86
MAR 2 3 2007
PATENT & TRADEMARK OFFICE

Atty. Docket No.: 2914 (203-3801)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Russell Heinrich

Patent No.: 6,959,851

Issued: November 1, 2005

For: **SURGICAL STAPLING DEVICE WITH TISSUE TENSIONER**

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

STATEMENT FROM PERSON BEING ADDED AS INVENTOR THAT THE INVENTORSHIP ERROR OCCURRED WITHOUT ANY DECEPTIVE INTENTION ON HIS PART IN ACCORDANCE WITH 37 C.F.R §1.324(b)1

I, Laszlo Csiky of Hungary, in accordance with 37 C.F.R. §1.324(b)1, declare that through inadvertent error I was not named as a second inventor for U.S. Patent No. 6,959,851 and that the error in inventorship occurred without any deceptive intention on my part.

Signature: Laszlo Csiky
Laszlo Csiky

Date: 19/02/2007

CERTIFICATION UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 20, 2007.

Dated: 3/20/07

Christopher G. Trainor
Christopher G. Trainor

OIPE IAP86
MAR 2 3 2007
PATENT & TRADEMARK OFFICE

Atty. Docket No.: 2914 (203-3801)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Russell Heinrich

Patent No.: 6,959,851

Issued: November 1, 2005

For: **SURGICAL STAPLING DEVICE WITH TISSUE TENSIONER**

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

STATEMENT FROM CURRENT NAMED INVENTOR AGREEING TO THE CHANGE OF INVENTORSHIP IN ACCORDANCE WITH 37 C.F.R §1.324(b)2

I, Russell Heinrich of Litchfield, Connecticut, in accordance with 37 C.F.R. §1.324(b)2 declare that I am in agreement with the change of inventorship to add Laszlo Csiky of Hungary as a second inventor for U.S. Patent No. 6,959,851.

Signature: Russell Heinrich

Date: 3/14/07

CERTIFICATION UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 20, 2007.

Dated: 3/20/07

Christopher G. Trainor

OIPE IAP86
MAR 2 3 2007
PATENT & TRADEMARK OFFICE

Atty. Docket No.: 2914 (203-3801)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Russell Heinrich

Patent No.: 6,959,851

Issued: November 1, 2005

For: **SURGICAL STAPLING DEVICE WITH TISSUE TENSIONER**

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

ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION IN ACCORDANCE WITH 37 C.F.R. §3.73 AND STATEMENT FROM ASSIGNEE AGREEING TO THE CHANGE OF INVENTORSHIP IN ACCORDANCE WITH 37 C.F.R §1.324(b)3

In accordance with 37 C.F.R. § 3.73, documentary evidence of the chain of title of U.S. Patent No. 6,959,851 from the original inventors, Russell Heinrich and Laszlo Csiky, to the assignee, Tyco Healthcare Group LP is enclosed herewith. More specifically, enclosed is a copy of an executed assignment by Russell Heinrich to Tyco Healthcare Group LP which was recorded at Reel/Frame 015874/0959 in the assignment records of the United States Patent and Trademark Office on October 4, 2004.

CERTIFICATION UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 20, 2007

Dated: 3/20/07

Christopher G. Trainor
Christopher G. Trainor

Also enclosed is a newly executed assignment by Laszlo Csiky to Tyco Healthcare Group LP which is currently being submitted to the United States Patent and Trademark Office for recordation pursuant to 37 C.F.R. §3.11.

I, Mark Farber of Shelton, Connecticut, in accordance with 37 C.F.R. §1.324(b)3 declare that the assignee, Tyco Healthcare Group LP, is in agreement with change of inventorship to add Laszlo Csiky of Hungary as an inventor for U.S. Patent No. 6,959,851. I presently hold the position of Assistant Secretary for Tyco Healthcare Group LP, and in such capacity, I am an officer of the assignee having apparent authority to sign on behalf of the assignee.

Signature: Mark Farber Date: 3/14/07

OIPE
MAR 23 2007
CANCELLED
PATENT & TRADEMARK OFFICE

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,959,851

APPLICATION NO.: 10/892,574

ISSUE DATE : November 1, 2005

INVENTOR(S) : Russell Heinrich

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

Item (75) Inventor: Russell Heinrich should be "Russell Heinrich, Litichfield, CT (US) and Laszlo Csiky, Huszar utca 6, Hungary.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, NY 11747

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited on date below with the United States Postal Service as first class mail, postpaid in an envelope, addressed to: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 3/20/07

Christopher G. Trainor

Christopher G. Trainor

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 Oct-06

KENNETH J. HOVET
NORDMAN, CORMANY, HAIR & COMPTON LLP
P.O. BOX 9100
1000 TOWN CENTER DRIVE
OXNARD CA 93031-9100

COPY MAILED
OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Huddle et al.	:	DECISION ON PETITION TO
Application No. 10/892,577	:	WITHDRAW HOLDING OF
Filed: 16 July, 2004	:	ABANDONMENT
Attorney Docket No. D9454	:	

This is a decision on the petition filed on 2 August, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 19 August, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that the Office action mailed on 19 August, 2005, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent attorney Patrick F. Bright, asserts that a search of the file and docket has been made, but that there is no indication of receipt of the Office action. Additionally, a copy of the docket report where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center's Technical Support Staff for remailing of the non-final Office action. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John Rogitz
Rigitz & Associates
750 B Street
Suite 3120
San Diego, CA 92101

MAILED
JUN 12 2007
Technology Center 2100

In re Application of:
Camaisa et al.
Application No. 10/892,584
Filed: July 15, 2004
For:

SYSTEM AND METHOD FOR BLOCKING UNAUTHORIZED NETWORK LOG IN USING STOLEN PASSWORD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on May 23, 2007 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 **DENIED**.

REGULATION AND PRACTICE

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

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **on or after August 25, 2006**;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was filed on July 15, 2004 and not **on or after August 25, 2006**. In addition, the instant application contains greater than twenty total claims.

Note also that MPEP § 708.02 requires that a petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, subsection II was required to be filed **prior to** August 25, 2006.

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

Tod R. Swann, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3612

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

EDWARD W. GOEBEL, JR.
MACDONALD ILLIG JONES & BRITTON, LLP
100 STATE STREET, SUITE 700
ERIE, PA 16507-1498

COPY MAILED

FEB 04 2008

OFFICE OF PETITIONS

In re Application of :
RABIEA, Jeffrey D. :
Application No. 10/892,594 :
Filed: July 16, 2004 :
Attorney Docket No. **2059-103US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to **MACDONALD ILLIG JONES & BRITTON, LLP** has been revoked by the assignee of the patent application on July 11, 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: **EPSTEIN DRANGEL BAZERMAN & JAMES, LLP**
60 EAST 42ND STREET, SUITE 820
NEW YORK NY 10165

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

GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

COPY MAILED

SEP 12 2008

In re Application of :
Benson M. Fong et al. :
Application No. 10/892,601 : ON PETITION
Filed: July 16, 2004 :
Attorney Docket No. **76914-200101/US** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 15, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on January 7, 2008, for failure to timely file a reply to the Final Office action mailed October 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 16, 2008.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of October 4, 2007, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the Final Office action mailed on October 4, 2007, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Additionally, however, a review of the record reveals that a three month extension of time was also filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1050.00 extension of time fee submitted with the petition on August 15, 2008, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 07-1250.

Finally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

A courtesy copy of an Advisory Action is included.

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

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

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

Telephone inquiries concerning this 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

cc:
CARMEN EKSTROM
GILEAD SCIENCES, INC.
333 LAKESIDE DRIVE
FOSTER CITY, CA 94404

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/892,601	Applicant(s) FONG ET AL.	
	Examiner ZOHREH VAKILI	Art Unit 1614	

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

THE REPLY FILED 15 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1,2,4-5.19.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

/Zohreh Vakili/

Continuation of 11. does NOT place the application in condition for allowance because: The amendment will not be entered into the record because of the addition of the new limitations that have raised new matter issuses. Accordingly, Applicant's remarks regarding the obviation of the rejections of record under 103 in view of the amendments are also not found persuasive, because the proposed after final amendments will not be entered into the record. However, Applicant's remarks regarding the rejection of the claims over Eck et al., Campbell, Jr. et al., Shashoua et al., and Fujioka et al. have been fully considered, but are not persuasive. In particular, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the same pupose: the idea od combining them flows logically from their having been individually taught in the prior art, see In re-Kerkhoven (205 USPQ 1069, CCPA 1980). In further response thereto, it is noted that Applicant has argued and discussed the references individually without clearly addressing the combined teachings. It must be remembered that the references are relied upon in combination and are not meant to be considered separately as in a vacuum. It is the combination of all of the cited and relied upon references that make up the state of the art with regard to the claimed invention. Applicant's claimed invention fails to patentably distinguish over the state of the art represented by the combination of the cited references. In re Young, 403 F.2d 754, 159 USPQ 725 (CCPA 1968); In re Keller 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Moreover, it is noted that rejections under 35 U.S.C. 103(a) are based on combinations of references, where the secondary references are cited to reconcile the deficiencies of the primary reference with the knowledge generally available to one of ordinary skill in the art to show that the differences between Applicant's invention and the prior art are such that they would have been modifications that were prima facie obvious to the skilled artisan. It is noted that the claimed invention is not required to be expressly suggested in its entirety by any one or all of the references cited under 35 U.S.C. 103(a). Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).
In the present case, for example Shashoua et al. is merely relied upon to show the dosage of the active agent. As previously stated above, the use of such compounds would have been prima facie obvious to one of ordinary skill in the art. Motivation to combine or modify the teachings has been clearly provided above. Applicant's attention is once again directed thereto. pplicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection. For these reasons, rejection of claims 1-2, 4-5, and 19 remains proper.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

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 (SV2)
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

In re Application of	:	
Benson M. Fong et al.	:	
Application No. 10/892,601	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. **76914-200101/US**	:	

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 15, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on January 7, 2008, for failure to timely file a reply to the Final Office action mailed October 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 16, 2008.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of October 4, 2007, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the Final Office action mailed on October 4, 2007, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Additionally, however, a review of the record reveals that a three month extension of time was also filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1050.00 extension of time fee submitted with the petition on August 15, 2008, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 07-1250.

Finally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

A courtesy copy of an Advisory Action is included.

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

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

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

Telephone inquiries concerning this 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

cc:
CARMEN EKSTROM
GILEAD SCIENCES, INC.
333 LAKESIDE DRIVE
FOSTER CITY, CA 94404

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/892,601	Applicant(s) FONG ET AL.	
	Examiner ZOHREH VAKILI	Art Unit 1614	

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

THE REPLY FILED 15 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1,2,4-5.19.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

/Zohreh Vakili/

Continuation of 11. does NOT place the application in condition for allowance because: The amendment will not be entered into the record because of the addition of the new limitations that have raised new matter issuses. Accordingly, Applicant's remarks regarding the obviation of the rejections of record under 103 in view of the amendments are also not found persuasive, because the proposed after final amendments will not be entered into the record. However, Applicant's remarks regarding the rejection of the claims over Eck et al., Campbell, Jr. et al., Shashoua et al., and Fujioka et al. have been fully considered, but are not persuasive. In particular, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the same pupose: the idea od combining them flows logically from their having been individually taught in the prior art, see In re-Kerkhoven (205 USPQ 1069, CCPA 1980). In further response thereto, it is noted that Applicant has argued and discussed the references individually without clearly addressing the combined teachings. It must be remembered that the references are relied upon in combination and are not meant to be considered separately as in a vacuum. It is the combination of all of the cited and relied upon references that make up the state of the art with regard to the claimed invention. Applicant's claimed invention fails to patentably distinguish over the state of the art represented by the combination of the cited references. In re Young, 403 F.2d 754, 159 USPQ 725 (CCPA 1968); In re Keller 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Moreover, it is noted that rejections under 35 U.S.C. 103(a) are based on combinations of references, where the secondary references are cited to reconcile the deficiencies of the primary reference with the knowledge generally available to one of ordinary skill in the art to show that the differences between Applicant's invention and the prior art are such that they would have been modifications that were prima facie obvious to the skilled artisan. It is noted that the claimed invention is not required to be expressly suggested in its entirety by any one or all of the references cited under 35 U.S.C. 103(a). Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).
In the present case, for example Shashoua et al. is merely relied upon to show the dosage of the active agent. As previously stated above, the use of such compounds would have been prima facie obvious to one of ordinary skill in the art. Motivation to combine or modify the teachings has been clearly provided above. Applicant's attention is once again directed thereto. pplicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection. For these reasons, rejection of claims 1-2, 4-5, and 19 remains proper.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

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Commissioner for Patents
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SANTA MONICA CA 90404

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In re Application of :
Benson M. Fong et al. :
Application No. 10/892,601 : ON PETITION
Filed: July 16, 2004 :
Attorney Docket No. **76914-200101/US** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 15, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on January 7, 2008, for failure to timely file a reply to the Final Office action mailed October 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 16, 2008.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of October 4, 2007, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the Final Office action mailed on October 4, 2007, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Additionally, however, a review of the record reveals that a three month extension of time was also filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1050.00 extension of time fee submitted with the petition on August 15, 2008, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 07-1250.

Finally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

A courtesy copy of an Advisory Action is included.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
CARMEN EKSTROM
GILEAD SCIENCES, INC.
333 LAKESIDE DRIVE
FOSTER CITY, CA 94404

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/892,601	Applicant(s) FONG ET AL.	
	Examiner ZOHREH VAKILI	Art Unit 1614	

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

THE REPLY FILED 15 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,2,4-5.19*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

/Zohreh Vakili/

Continuation of 11. does NOT place the application in condition for allowance because: The amendment will not be entered into the record because of the addition of the new limitations that have raised new matter issuses. Accordingly, Applicant's remarks regarding the obviation of the rejections of record under 103 in view of the amendments are also not found persuasive, because the proposed after final amendments will not be entered into the record. However, Applicant's remarks regarding the rejection of the claims over Eck et al., Campbell, Jr. et al., Shashoua et al., and Fujioka et al. have been fully considered, but are not persuasive. In particular, it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the same pupose: the idea od combining them flows logically from their having been individually taught in the prior art, see In re-Kerkhoven (205 USPQ 1069, CCPA 1980). In further response thereto, it is noted that Applicant has argued and discussed the references individually without clearly addressing the combined teachings. It must be remembered that the references are relied upon in combination and are not meant to be considered separately as in a vacuum. It is the combination of all of the cited and relied upon references that make up the state of the art with regard to the claimed invention. Applicant's claimed invention fails to patentably distinguish over the state of the art represented by the combination of the cited references. In re Young, 403 F.2d 754, 159 USPQ 725 (CCPA 1968); In re Keller 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Moreover, it is noted that rejections under 35 U.S.C. 103(a) are based on combinations of references, where the secondary references are cited to reconcile the deficiencies of the primary reference with the knowledge generally available to one of ordinary skill in the art to show that the differences between Applicant's invention and the prior art are such that they would have been modifications that were prima facie obvious to the skilled artisan. It is noted that the claimed invention is not required to be expressly suggested in its entirety by any one or all of the references cited under 35 U.S.C. 103(a). Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).
In the present case, for example Shashoua et al. is merely relied upon to show the dosage of the active agent. As previously stated above, the use of such compounds would have been prima facie obvious to one of ordinary skill in the art. Motivation to combine or modify the teachings has been clearly provided above. Applicant's attention is once again directed thereto. pplicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection. For these reasons, rejection of claims 1-2, 4-5, and 19 remains proper.

/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614

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333 LAKESIDE DR
FOSTER CITY CA 94404

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OFFICE OF PETITIONS

In re Application of
Benson M. Fong et al.
Application No. 10/892,601
Filed: July 16, 2004
Attorney Docket No. **76914-200101/US**

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed November 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 7, 2008, for failure to timely file a reply to the Final Office action mailed October 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 16, 2008. A petition filed August 15, 2008 was dismissed in a decision mailed mailed September 12, 2008 and in a corrected decision on September 30, 2008, with an Advisory Action, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1614 for processing of the RCE.

Telephone inquiries related to this decision 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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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

Mail Date: 05/04/2010

Applicant	: Dana Blair	: DECISION ON REQUEST FOR
Patent Number	: 7613110	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/892,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1510** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 19 2005

OFFICE OF PETITIONS

Michael P. Dilworth
CROMPTON CORPORATION
Benson Road
Middlebury, CT 06749

In re Application of Grabowski, Migdal, and Hull Application No. 10/892,610 Filed: July 16, 2004 Attorney Docket No. 0182-PA (UNI167US) For: Polysiloxane Additives for Lubricants and Fuels	DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 20, 2005.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy item (1) listed above.

Petitioner has failed to prove that the two non-signing inventors cannot be found or refuse to sign the declaration.

Petitioner states that the two inventors are represented by in-house counsel at General Electric. Petitioner states that it cannot contact the inventors directly because they are represented by counsel. The record appears to indicate GE attorneys are attempting to assist petitioner in locating the inventors but does not indicate that GE attorneys have been hired by the inventors to represent the inventors. The record even indicates that one of the inventors is retired and no longer employed by GE.

Even if an attorney client relationship exists between GE and the inventors, GE has failed to indicate a desire for petitioner not to directly contact the inventors. Han Pham at GE even encourage direct contact by suggesting in an email that petitioner email the inventors certain documentation.

If petitioner can prove that the inventors have given GE the authority to represent them, then providing a copy of the papers to the attorneys at GE is the equivalent of sending the papers to the inventors since a client is assumed to have "notice of all facts, not notice of which can be

charged upon the attorney."[1] Petitioner can send a copy of the application to GE along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

If petitioner is unable to prove that the inventors have given GE the authority to represent them, then petitioner should send a copy of the application to the inventors along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962) (quoting Smith v. Ayer, 101 U.S. 320, 326 (1880)).

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Michael P. Dilworth
CROMPTON CORPORATION
Benson Road
Middlebury, CT 06749

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of Grabowski, Migdal, and Hull Application No. 10/892,610 Filed: July 16, 2004 Attorney Docket No. 0182-PA (UNI167US) For: Polysiloxane Additives for Lubricants and Fuels	: : : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed October 19, 2005.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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FAX COVER SHEET

TO	Office of Petitions
COMPANY	USPTO
FAX NUMBER	15712738300
FROM	Lance Buttars
DATE	2009-11-20 20:40:31 GMT
RE	Request for Certificate for Certificate of Correction

COVER MESSAGE

Please forward to Office of Petitions

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	HEATH, CHESTER A.	
Serial No.:	10/892,624	Art Unit: 3766
Filing Date:	07/16/2004	Examiner: BERTRAM, ERIC D.
Title:	AN EPIDERMAL STIMULATION DEVICE	
Docket No.:	3376.2.1NP	

CERTIFICATE OF CORRECTION

ATTN: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In accordance with 37 CFR 3.81(b) Patentee requests a Certificate of Correction. The failure to include the correct assignee name on the PTOL-85B was inadvertent. Attached is a copy of the Patent Assignment Abstract of Title which reflects the reel and frame number where the assignment is recorded.

A fee of $100 was previously submitted on October 15, 2009 for Consideration of a Request to correct assignment data; therefore, no additional fee is required.

Respectfully Submitted,

Jason P. Webb
Registration No. 55,714
Attorney for Applicant

Date: November 20, 2009
9035 South 1300 East, Suite 200
Sandy, Utah 84094
Telephone: 801/272-8368

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. : 7,584,001

APPLICATION NO.: 10/892,624

ISSUE DATE : 09/01/2009

INVENTOR(S) : Kent F. Beck, James Malmstrom

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

The assignee needs to be listed on the patent.

Assignee:

HEATH, CHESTER A.
490 EAST BUCKLEY AVENUE
SPRINGVILLE, UTAH 84663-2070

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Advantia Law Group
9035 S 1300 E, Suite 200
Sandy, UT 84094

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

United States Patent and Trademark Office

Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE:Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 1

Patent #: 7584001 **Issue Dt:** 09/01/2009 **Application #:** 10892624 **Filing Dt:** 07/16/2004

Publication #: 20050015119 **Pub Dt:** 01/20/2005

Inventors: Kent F. Beck, James Malmstrom

Title: ELECTRICAL EPIDERMAL STIMULATION DEVICE

Assignment: 1

Reel/Frame: 018476/0437 **Recorded:** 11/02/2006 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: BECK, KENT F. **Exec Dt:** 11/02/2006

MALMSTROM, JAMES **Exec Dt:** 11/02/2006

Assignee: HEATH, CHESTER A.
490 EAST BUCKLEY AVENUE
SPRINGVILLE, UTAH 84663-2070

Correspondent: STARKWEATHER & ASSOCIATES
SUITE 200
9035 SOUTH 1300 EAST
SANDY, UT 84094

Search Results as of: 10/28/2009 04:49 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.2

Electronic Acknowledgement Receipt

EFS ID:	6272351
Application Number:	10892624
International Application Number:	
Confirmation Number:	3585
Title of Invention:	ELECTRICAL EPIDERMAL STIMULATION DEVICE
First Named Inventor/Applicant Name:	Kent F. Beck
Correspondence Address:	STARKWEATHER & ASSOCIATES - 9035 S 1300 E, SUITE 200 - SANDY, UTAH UT 84094 US 8012728368 -
Filer:	Michael W. Starkweather/Andrea Birch
Filer Authorized By:	Michael W. Starkweather
Attorney Docket Number:	3012.2.1
Receipt Date:	15-OCT-2009
Filing Date:	16-JUL-2004
Time Stamp:	18:21:40
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$100

RAM confirmation Number	4556
Deposit Account	
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for Certificate of Correction	337621npCORRECTION.pdf	44165 781c2dae190e7042c8fe1a4805d4e4e9271c7166	no	2
Warnings:					
Information:					
2	Fee Worksheet (PTO-875)	fee-info.pdf	30208 68e46c16f495eb41badfa709ed1b7489954b2951	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	74373		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

<u>New Applications Under 35 U.S.C. 111</u>
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

<u>National Stage of an International Application under 35 U.S.C. 371</u>
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

<u>New International Application Filed with the USPTO as a Receiving Office</u>
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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October 21, 2009

RECEIVED
OCT 27 2009
BY:

Patent No. : 7,584,001
Ser. No. : 10/892,624
Inventor(s) : Beck et al
Issued : September 1, 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 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.

RoChaun Johnson
For Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
571 272-0470

ADVANTIA LAW GROUP
9035 S 1300E, SUITE 200
SANDY, UT 84094

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTERNATIONAL FLAVORS & FRAGRANCES INC.
521 WEST 57TH ST.
NEW YORK, NY 10019

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OFFICE OF PETITIONS

In re Application of	:	
John Wright	:	
Application No. 10/892,654	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. BBA 6236-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 16, 2006.

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

This matter is being referred to Technology Center AU 3629 for further processing.

Irvin Dingle
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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Matthew E. Connors, Esq.
Gauthier & Connors, LLP
225 Franklin Street
Suite 2300
Boston, MA 02110

In re Application of Zhak, et al. Application No. 10/892,669 Filed: July 16, 2004 Atty. Dkt. No.: MIT.10142	:	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This decision is in response to the petition under 37 CFR 1.137(f), filed July 20, 2006.

The petition is hereby **GRANTED**.

Petitioners state that the instant non-provisional application is the subject of an application filed July 19, 2004 in a foreign country, or under a multinational treaty, that requires publication of applications eighteen months after filing. Petitioners' further state that petitioners unintentionally failed to notify the Office of this filing within 45 days of the filing of the subject application in a foreign country.

Hence, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement that requires publication of applications 18 months after filing.

A grantable petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply; (2) the petition fee; (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; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found to be in compliance with the provisions of 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Notice regarding rescission was mailed June 30, 2006.

This application is being forwarded to the Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of	:	
LYNN, Ralf G.	:	
Application No. 10/892,676	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO WITHDRAW
Attorney Docket No. **23659-501 CON**	:	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 13, 2007.

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

A review of the file record indicates that the power of attorney to MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C. has been revoked by the applicant of the patent application on March 12, 2007. 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BURNS & LEVINSON, LLP**
125 SUMMER STREET
BOSTON MA 02110

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

JACKSON WALKER L.L.P
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of	:	
Alexander Krichevsky	:	
Application No. 10/892,690	:	DECISION ON PETITION
Filed: July 16,2004	:	TO WITHDRAW
Attorney Docket No. 121648-0001 (B74216)	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Christopher Rourk and those practitioners associated whit customer number 33649 have been revoked by the assignee of the patent application on April 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The Revocation by Assignee and New Power of Attorney was accepted on June 30, 2006. The Power of attorney, however, was incomplete, in that the signing party failed to comply with 37 CFR 3.73 (b). The previous submissions under 37 CFR 3.73 (b) identify a reel and frame number to provisional No. 60/351,470. The above-identified application has no continuity to Provisional Application No. 60/351,470, and assignee has not shown the complete chain the title from the inventor to the current assignee.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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

cc: Ms. Connie Nash
Cornerstone Group, LTD.
P.O. Box 1892
Laguna Beach, California 92652

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United States Patent and Trademark Office
P.O. Box 1450
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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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OCT 0 5 2006

OFFICE OF PETITIONS

In re Application of
KRICHEVSKY
Application No. 10/892,690
Filed: July 16, 2004
Attorney Docket No. 34373-501-059

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed July 21, 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)

The instant petition does not include an explanation to the satisfaction of the Director of how the claimed invention materially contributes to countering terrorism. Petitioner argues that claimed invention, a video surveillance system, uses data transmission technique that reduces the delay between the activity being monitored and the displayed video. In turn, Petitioner states this system and method provide "higher quality video surveillance images so terrorists can be more easily identified and provides near real time surveillance video enabling more rapid deployment of a counter-terrorism response."

The claimed invention is a system and method for transmitting data. None of the claims are explicitly directed toward countering terrorism nor is there a suggestion of countering terrorism in disclosure. At most, the invention permits a user to identify individuals. Further steps than claimed would be required to actually offset or nullify terrorism. Additionally, the materiality does not permit the Petitioner to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Thus, the suggestion that the images from the video surveillance system enable "more rapid deployment of counter-terrorism response" is speculation as to how the end-user might apply the invention. Finally any aspect of the claimed invention directed to countering terrorism is minor and does not rise to the level of a material contribution as intended by the rule. As a result, no advance in 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 the undersigned at 571-272-4787.

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 2621 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
JAN 2 1 2009

In re Application of	:	
KRICHEVSKY, Alexander et al.	:	
Application No. 10/892,690	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. **34373-501-059**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 01, 2008.

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

A review of the file record indicates that the power of attorney to Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C has been revoked by the assignee of the patent application on December 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **K&L GATES LLP**
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

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K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
KRICHEVSKY, Alexander et al.	:	
Application No. 10/892,690	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. **34373-501-059**	:	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 23, 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 Thomas A. Turano on behalf of all attorneys of record who are associated with customer No. 22832. 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 Alexander Krichevsky at the address indicated below.

There is an outstanding Office action mailed February 03, 2009 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALEXANDER KRICHEVSKY**
CONSTANCE NASH
CORNERSTONE GROUP, LTD.
P.O. BOX 1892
LAGUNA BEACH, CA 92652

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY
LAW OFFICE OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU CA 90265

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NOV 05 2009

OFFICE OF PETITIONS

In re Application of	:	
KRICHEVSKY, Alexander et al.	:	
Application No. 10/892,690	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 09, 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 Joel D. Voelzke on behalf of all attorneys of record who are associated with customer No. 47533. All attorneys/agents associated 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 at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CONSTANCE NASH, CORNERSTONE GROUP, LTD.**
P.O. BOX 1892
LAGUNA BEACH, CA 92652

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BRIARCLIFF MANOR NY 10510-8001

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Mohamed Azimane	:	
Application No. 10/892,696	:	DECISION ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. US04 0161 US1	:	

This is a decision on the petition, filed April 12, 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 office letter mailed November 15, 2006. A Notice of Abandonment was mailed on February 21, 2007.

A review of the file shows that Notice of Allowance/Allowability was mailed September 21, 2006. In response there to, the issue fee payment was timely filed on October 13, 2006. An internal document (Printer Rush) dated November 15, 2006 shows that the examiner responded to a query from the Chief Draftsperson with a notation "Drawing objection mailed, see attachment." The attachment was Notice Regarding Drawings (Notice) showing a date mailed to applicant of November 14, 2006. This copy of the Notice is considered merely an attachment to the internal document which the examiner sent back to the Chief Draftsman. The record does not show any mailing to applicant of this Notice. The Notice of Abandonment references an Office letter mailed November 15, 2006 which is not the same day as the alleged mailing of the Notice Regarding Drawings. Since the record shows no papers mailed on November 15, 2006, it is assumed the notice of abandonment was referring to the Notice Regarding Drawings.

Petitioner states he did not receive the Printer Rush or Notice Regarding Drawings. A Printer Rush is an internal document and would not be mailed to petitioner. It is clear from the record that the Notice Regarding Drawings was not mailed by the Office. Since this Notice was not mailed, there was no need for petitioner to file any response at that time.

Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment mailed February 21, 2007 is hereby vacated and the holding of abandonment withdrawn.

Petitioner filed a Change of Correspondence Address concurrent with the instant petition. The address change is not grantable. The requester is indicated as Attorney or agent of record. Registration Number 43,305. A review of the file shows that there is no attorney or agent of record. A courtesy copy of this decision is being mailed to the requested address change but all further correspondence will be mailed to the address of record until such time as a proper request for change of correspondence address is made.

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

This application is being referred to the Technology Center Art Unit 2138 for mailing of a Notice Regarding Drawings.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: NXP, B.V.
NXP INTELLECTUAL PROPERTY
DEPARTMENT M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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JAN 11 2007

OFFICE OF PETITIONS

NORMAN E. LEHRER, ESQUIRE
1205 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08034

In re Application of	:	
Joseph Ruccolo	:	
Application No. 10/892,698	:	DECISION ON PETITION
Filed: 07/16/2004	:	
Attorney Docket No. 5689-1	:	

This is a decision on the petition under 37 CFR 1.137(f), filed August 22, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 present nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 14, 2005. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, 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 eighteen 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 present 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 forty-five days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of April 19, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3781.

Any inquiries concerning 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: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/892,698	07/16/2004	Joseph Ruccolo	5689-1

CONFIRMATION NO. 3595

NORMAN E. LEHRER, ESQUIRE
1205 NORTH KINGS HIGHWAY
Cherry Hill, NJ 08034

Date Mailed: 01/11/2007

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

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

The projected publication date is 04/19/2007.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of
Paula S. Neustat et al.
Application No. 10/892,700
Filed: July 15, 2004
Attorney Docket No. 00361/1201977-US1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on November 22, 2004.

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 15, 2004, without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed August 27, 2004 requiring inter alia, an executed oath or declaration, filing fees, a surcharge for their late filing and additional claim fees.

In response, an oath or declaration naming Paula S. Neustat, Brenda K. Miller, Walter Garbinski and Ann E. Shields as joint inventors was filed with the instant petition and a request for a one month extension of time. The declaration was signed by all joint inventors except Ms. Neustat. The present petition seeks status under 37 CFR 1.47 claiming that joint inventor Neustat refuses to execute the declaration.

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

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

The petition asserts that a copy of the declaration and assignment were sent to Ms.

Neustat. Ms. Neustat mailed a response to the attorneys of record but did not include the executed declaration or assignment. The evidence presented however is not sufficient to show that Ms. Neustat had the benefit of reviewing the application, thus the requirements for status under 37 CFR 1.47(a) have not been met.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With respect to the fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 04-0100 will be 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.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of
Paula S. Neustat et al.
Application No. 10/892,700
Filed: July 15, 2004
Attorney Docket No. 00361/1201977-US1

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

This is in response to the renewed petition filed under 37 CFR 1.47(a) on May 11, 2005.

The petition is **GRANTED**.

The above-identified application was filed on July 15, 2004, without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed August 27, 2004 requiring inter alia, an executed oath or declaration, filing fees, a surcharge for their late filing and additional claim fees. In response, on November 22, 2004, a petition under 37 CFR 1.47(a) and one month extension of time request was filed, accompanied by an oath or declaration naming Paula S. Neustat, Brenda K. Miller, Walter Garbinski and Ann E. Shields as joint inventors but only signed by Miller, Garbinski and Shields. On December 10, 2004, the petition was dismissed because the petitioners failed to show that a complete application had been sent to non-signing inventor Paula S. Neustat.

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

In response to the decision dismissing the petition filed November 22, 2004, the instant petition shows that a complete application had been sent to non-signing inventor Paula S. Neustat and that she has, by her actions, refused to cooperate with the filing of the instant application.

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 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 Technology Center 3636 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

PAULA S. NEUSTAT
10 LONDON TERRACE
NEW CITY, NY 10956

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MAY 24 2005

OFFICE OF PETITIONS

In re Application of
Paula S. Neustat et al.
Application No. 10/892,700
Filed: July 15, 2004
For: ADJUSTABLE SLIP COVER FOR SOFAS

Dear Ms. Neustat:

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:
DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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JUL 23 2008

In re Application of	:
Paula S. Neustat et al.	:
Application No. 10/892,700	: DECISION GRANTING PETITION
Filed: July 15, 2004	:
Attorney Docket No. **00361/1201977-US1**	:

This is a decision on the petition, filed July 8, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on October 15, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is October 30, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1540.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 3636 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/892,700	07/15/2004	Paula S. Neustat	00361/1201977-US1

CONFIRMATION NO. 3609

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

NONPUBLICATION RESCISSION LETTER

OC000000031130438

Date Mailed: 07/23/2008

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

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

The projected publication date is 10/30/2008.

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

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

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

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

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

/pffaison ball/

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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P O BOX 51295
KNOXVILLE TN 37950-1295

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
William Groh : DECISION ON PETITION
Application No. 10/892,708 :
Filed: July 16, 2004 :
Attorney Docket No. 28292.00 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 11, 2007.

The petition under § 1.137(b) is **granted**.

The above-identified application became abandoned for failure to timely file a response to the final rejection mailed February 13, 2006. This Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). An extension of time for response within the first month was filed. No reply having been received and no further extension of time obtained, the application became abandoned on June 14, 2006. A courtesy Notice of Abandonment was mailed on November 27, 2006.

In response, applicant filed the instant petition. The petition did not include a reply to the final Office action. Rather, the petition included payment of the petition fee, the required statement of unintentional delay and the reply in the form of a continuation application.

In view thereof, the above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the

application is again abandoned in favor of the continuation application No. 11/622,459 filed January 11, 2007.

However, it is noted that the continuation application as filed on January 11, 2007 does not include a claim for priority to the instant application. Rather, the claim referenced application No. 07/892,708. Submission of a proper petition under 37 CFR 1.78(a)(3) is required to correct this benefit claim. As illustrated in the questions and answers available on the USPTO website:

> CX9. Applicant filed an application with a claim for the benefit of an earlier copending nonprovisional application, Application No. 05/123,455. The benefit claim was filed within four months from the actual filing date of the application, but referenced an incorrect application number (should have been 06/123,456. If applicant wants to correct the application number after the four month period would a petition under 37 CFR 1.78(a)(3) and the surcharge set forth in 37 CFR 1.17(t) be required? (added 4Feb2005)
>
> Yes, a petition and the surcharge would be required to correctly identify the prior application number because a benefit claim pursuant to 37 CFR 1.78(a)(2) requires identification of the application number and the Office enters the prior application's application number to schedule the application for publication.
>
> See www.uspto.gov/web/offices/dcom/olia/aipa/18monthfaq.htm (last viewed October 31, 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

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 F. Krieger
Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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MAR 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Lebo, et al. :
Application No. 10/892,714 : ON PETITION
Filed: July 16, 2004 :
Attorney Docket No. 10237.35 :
For: METHOD OF SIMPLIFYING PLACEMENT OF JUMPERS USING TEMPLATES

This is a decision on the petition under 37 CFR 1.47(a), filed January 18, 2006. The petition will be treated as a petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.67, which requires that a supplemental declaration be executed by all named inventors.[1]

The petition under 37 CFR §1.183 requesting waiver of 37 CFR § 1.67 is **granted**.

Petitioners have established that Mr. Lebo refused to sign an updated inventor's declaration on September 13, 2005 during a telephone call with Attorney David B. Tingey. In view of Mr. Lebo's refusal to sign the declaration, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed on January 18, 2006.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

Regarding fees, a Rule 183 waiver petition fee is $400.00. Petitioner paid $130.00 towards the petition fee. Pursuant to petitioners' authorization, deposit account no. 50-0843 will be charged the balance due, or $270.00.

This application is being forwarded to Technology Center G.A.U. 2833 for consideration of the RCE and amendment filed on January 18, 2006.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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WILMERHALE/NEW YORK
399 PARK AVENUE
NEW YORK, NY 10022

Mail Date: 04/20/2010

Applicant	: Werner Niebel	: DECISION ON REQUEST FOR
Patent Number	: 7620038	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/892,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1309** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Jodi Lynn Reeves, et al.

Title: METHODS FOR FORMING SUPERCONDUCTOR ARTICLES AND XRD METHODS FOR CHARACTERIZING SAME

App. No.: 10/892,731 Filed: July 16, 2004

Examiner: UNASSIGNED Kopec Group Art Unit: ~~2882~~ 1751

Atty. Dkt. No. 1014-SP231-US

RECEIVED
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NOV 1 1 2004

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MPEP § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

11/11/04
Date

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

BEST AVAILABLE COPY

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUL 2 5 2005

28 FEB 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David A. Divine
Lee & Hayes, pllc
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

In re Application of	:
LAYMAN, et al.	:
Application No. 10/892,744	: DECISION ON PETITION
Filed: July 16, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MS1-0521USC1	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 12 October 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in a previously filed amendment.

The petition is **GRANTED**.

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

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

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the

instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. 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 2176 for appropriate action on the amendment submitted 12 October 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/148,172.

Boris Milef

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

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OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/892,754 :
Filed: July 15, 2004 :
Attorney Docket No. MMS-26A31 :

DECISION GRANTING PETITION

This is a decision on the petition filed November 18, 2004, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the alleged omitted Figure 7.

The petition is **granted**.

On July 15, 2004, the above-identified application was filed. However, on September 16, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of July 15, 2004, and advising applicant that Figure 7 as described in the specification appeared to have been omitted. Relative to the alleged omitted item, the notice set a non-extendable period for reply two-month period for reply.

In response, on November 18, 2004 (certificate of mailing dated November 16, 2004), applicant filed the present petition, a copy of Figure 7 as described in the specification, and an Office date-stamped postcard receipt acknowledging receipt of 14 pages of the drawings, among other items.

Upon review of the record, Figure 7 was not located among the application papers. However, the evidence is convincing that the application papers deposited July 15, 2004, included Figure 7, which was subsequently misplaced by the Office. Therefore, the application, including Figure 7, was complete on filing and entitled to the presently accorded filing date of July 15, 2004, with Figure 7 as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $130.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of July 15, 2004, using the 14 sheets of drawings filed on that date.

The declaration filed November 18, 2004, is noted and made of record.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WATERS INVESTMENTS LIMITED
C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD, MA 01757

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OFFICE OF PETITIONS

In re Application of	:	
Geromanos et al.	:	
Application No.: 10/892,768	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No: **AE-MM-15 C2**	:	

This is in response to the petition under 37 CFR 1.137(b) filed July 13, 2006.

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

On September 15, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration and surcharge. A proper reply was not received within the allowable period, and the application became abandoned on November 16, 2004. A Notice of Abandonment was mailed on June 14, 2005.

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 form 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.

The executed declaration filed July 13, 2006, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

15 AUG 2008

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34 MAPLE STREET - LG
MILFORD, MA 01757

In re Application of GEROMANOS et al Application No.: 10/892,768 Filing Date: July 16, 2004 Attorney Docket No.: AE-MM-15 C2	DECISION ON PETITIONS UNDER 37 CFR 1.78(a)(3) AND 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 4, 2007, and the petition under 37 CFR 1.78(a)(6), filed March 12, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed application data sheet.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

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

I. Petition under 37 CFR 1.78(a)(3)

MPEP 201.11, Section III. D., states in relevant part,

> If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt.

In the present case, although the benefit claim to non-provisional application PCT/GB02/05571 in the application data sheet filed July 16, 2004 was not in proper format, because the claim was included on the initial filing receipt, a petition under 37 CFR 1.78(a)(3) is not required. Applicant is advised that the benefit claim to non-provisional application 10/497,896 is redundant since application 10/497,896 is technically the same application as PCT/GB02/05571.

II. Petition under 37 CFR 1.78(a)(6)

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

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

(1) the reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 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)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed application has been included in the application data sheet filed with the present petition as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

With further regard to item (3) above, the petition states 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." This statement is interpreted as a statement that the 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. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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 any Filing Receipt 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 questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1797 for further action by the examiner as deemed appropriate in light of this decision.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration / Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Patent No. : 7,544,256 B2
Ser. No. : 10/892,778
Inventor(s) : Howard Robinson Mayer, et. al.
Issued : June 9, 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
401 Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Wood, Herron & Evans, LLP
2700 Carew Tower, 441 Vine Street
Cincinnati, Ohio 45202

ej

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Patent No. 7,544,256	:	
Issue Date: June 9, 2009	:	
Application No. 10/892,778	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. QCF-02	:	

This is a decision on the petition filed July 23, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the second assignee was erroneously listed as the U.S. Department of Energy on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee when, in fact, the second assignee is UT-Battelle, LLC, as recorded at Reel 019109, Frame 0250 on April 4, 2007. Accordingly, petitioner requests, in effect, that a Certificate of Correction be issued naming Queen City Forging Co and UT-Battelle, LLC as the assignees.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

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

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with all the provisions of 37 CFR 3.81(a), the request cannot be granted at this time.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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Joseph M. Rolnicki
Thompson Coburn LLP
One US Bank Plaza
St. Louis MO 63101-9928

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OFFICE OF PETITIONS

In re Application of :
Ridgeway :
Application No. 10/892,783 :
Filed: July 16, 2004 :
Attorney Docket No. 45407-47872 :
For: SPECIALTY HAT

ON PETITION

This is a decision on the petition, filed June 16, 2006 (certificate of mailing date June 12, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 5, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on January 6, 2006. A Notice of Abandonment was mailed on April 27, 2006.

Applicant has submitted an amendment in reply to the October 5, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3765 for consideration of the amendment filed on June 16, 2006 (certificate of mailing date June 12, 2006).

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

Shirene Willis Brantley

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/892,784	07/16/2004	3616	1136	1-24643	11	26	6

CONFIRMATION NO. 3674

CORRECTED FILING RECEIPT

OC000000014007899

46582
MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

Date Mailed: 10/05/2004

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

Applicant(s)

Richard J. Barron, Ann Arbor, MI;
Blaise Ganzel, Ann Arbor, MI;

Power of Attorney: The patent practitioners associated with Customer Number **4859**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/488,103 07/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/09/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/892,784

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Vehicle roll control system with self-centering actuator

Preliminary Class

280

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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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
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Mail Date: 04/21/2010

Applicant	: Richard J. Barron	: DECISION ON REQUEST FOR
Patent Number	: 7641208	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/892,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1140** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RUBEN C. DELEON
WINSTEAD SECHROST & MINICK P.C.
P.O. BOX 50784
DALLAS, TX 75201

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:
Henderson, Wyntoun Xavier	:
Application No. 10/892,794	: DECISION GRANTING PETITION
Filed: July 16, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 43856-P001US	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/488,579, filed July 18, 2003, as set forth in the concurrently filed amendment and application data sheet (ADS).

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/488,579, which was filed on July 18, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 36 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1761 for appropriate action on the amendment submitted February 17, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/488,579.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of

Wyntoun X. Henderson
Application No. 10/892,794
Filed: July 16, 2004
Attorney Docket No. 43856-P001US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 12, 2005 and January 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 CFR § 1.136(a).

The request was signed by Ruben C. DeLeon on behalf of himself and all the attorneys/agents associated with Customer Number 42013.

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

There is no attorney of record at this time.

Applicant should note that there is an outstanding final Office action mailed March 10, 2006 that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: WYNTOUN HENDERSON
8531 FOXWOOD LANE
DALLAS, TX 75217

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

In re Application of	:	
Ogawa	:	DECISION ON REQUEST TO
Application No. 10/892807	:	PARTICIPATE IN PATENT
Filed: July 16, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 1232-5469	:	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 February 16, 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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

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JUN 29 2010
OFFICE OF PETITIONS

In re Patent No. 7,623,156	: DECISION ON REQUEST FOR
Nimri et al.	: RECONSIDERATION OF
Issue Date: November 24, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/892,813	: AND
Filed: July 16, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 199-0359US	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred sixty-eight (1468) 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 sixty-eight (1468) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred sixty-eight (1468) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,623,156 B2

DATED : Nov. 24, 2009 **DRAFT**

INVENTOR(S) : Nimri 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 977 days

Delete the phrase "by 977 days" and insert – by 1468 days--

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Biren Shah	: DECISION ON REQUEST FOR
Patent Number	: 7574690	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/892,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Cruz et al. : DECISION ON PETITION
Application No. 10/892,831 :
Filed: July 15, 2004 :
Attorney Docket No. 16602-009002 :

This is a decision on the petition filed on March 3, 2005, requesting that the above-identified application be accorded a filing date of July 15, 2004, instead of the present filing date of November 29, 2004.

On July 15, 2004, the above-identified application was filed. However, on September 27, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of July 15, 2004, and requiring applicants to submit the statutory basic filing fee, a surcharge for its late filing, and additional claim fees. Additionally, the Notice indicated that Figures 9B, 13B, and 25D described in the specification appeared to have been omitted.

In response, on November 29, 2004, applicants filed a "Response To Notice To File Missing Parts of Application," with three drawing sheets (Figures 8, 9A, 9B, 13A, 13B, 25C and 25D) and the requisite fees.

The Office of Initial Patent Examination interpreted the filing of the three drawing sheets as applicants' intent to accept the later filing date of November 29, 2004, with replacement Figures 8, 9A, 9B, 13A, 13B, 25C and 25D as part of the original disclosure. The Office of Initial Patent Examination accorded the application a filing date of November 29, 2004, the date of receipt of the replacement Figures in the USPTO.

On March 3, 2005, applicants filed the present petition. Applicants stated that they did not omit Figures 9B, 13B and 25D. Rather, applicants did not separately label these drawings upon filing the original application papers. Applicants further stated that on November 29, 2004, applicants submitted replacement figures which relabeled Figure 9 as Figures 9A and 9B; Figure 13 as Figures 13A and 13B; and Figure 25C as Figures 25C and 25D. Applicants asserted that all figures recited in the specification were present in the application as filed.

It is obvious from the petition that no drawing was actually missing on July 15, 2004. Rather, the drawing of Figures 9B, 13B and 25D were simply mislabeled as a result of applicants' filing error. However, the Notice of Missing Parts mailed on September 27, 2004, was correct in stating that Figures 9B, 13B and 25D described in the specification appeared to have been omitted. Therefore, the requirement to submit the omitted figures set forth in the Notice of Missing Parts will not be withdrawn. Additionally, applicants indicated that they did not intended for the application to be accorded the later filing date of November 29, 2004, the date of deposit of the replacement Figures with the USPTO.

Accordingly, the petition is grant to the extent indicated.

The application will be accorded a filing date of July 15, 2004, using the drawings submitted on that date as part of the original disclosure.

The $400.00 petition fee will be charged to Deposit Account No. 06-1050.

The Office of Initial Patent Examination is directed to correct the filing date to July 15, 2004, using the drawing submitted on that date 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

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OFFICE OF PETITIONS

In re Application of	:	
Sheikh et al.	:	
Application No. 10/892,852	:	DECISION ON APPLICATION
Filed: July 16, 2004	:	FOR
Atty Docket No. 141448/GETS	:	PATENT TERM ADJUSTMENT
5325.1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed September 6, 2007[1]. Applicants request correction of the patent term adjustment from zero (0) days to, pursuant to 37 CFR § 1.703(b) and § 1.703(f), the number of days in the period beginning on July 17, 2007 and ending on the actual issue date of the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for

[1] This application was timely filed prior to payment of the Issue Fee on September 7, 2007.

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Jan-Ove U. Mattsson et al	:	
Application No. 10/892,858	:	DECISION GRANTING PETITION
Filed: July 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CE12254JAN	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 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 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 3, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply ("Amendment"); (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 2, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2821 for appropriate action in the normal course of business on the reply received March 3, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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OFFICE OF PETITIONS

In re Patent of Boecker et al.	:	DECISION ON REQUEST
Patent No. 7,575,558	:	FOR RECONSIDERATION OF
Issue Date: August 18, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/892,874	:	AND NOTICE OF INTENT TO
Filing Date: July 16, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. PEL-4013	:	CORRECTION

This is a decision on the petition filed on September 30, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-five (1,365) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-five (1,365) days is **GRANTED**.

Patentees provide the Office with authorization to charge any necessary fees to Deposit Account No. 50-4634, but state patentees "do not believe the $200 charge for reconsideration of the PTA should be charged [because] no error was made on the part of the Applicants." An application for patent term adjustment under 37 C.F.R. § 1.705 must be accompanied by payment of a $200 fee pursuant to 37 C.F.R. § 1.18(e). The Office does not refund the fee even if the petition is necessitated by Office error.[1] Therefore, the Office has charged $200 to the deposit account.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred sixty-five (1,365)** days.

[1] *See* Response to Comment 1, Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 56,366, 53,374 (September 18, 2000), 1239 Off. Gaz. Pat. Office 14 (October 3, 2000) ("refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.")

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,575,558 B2
ISSUE DATE	:	July 16, 2004
INVENTOR(S)	:	Boecker 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 822 days.

Delete the phrase "by 822 days" and insert - by 1,365 days--

OCT 27 2004 JC32 PATENT & TRADEMARK OFFICE

IFW FILE COPY

I hereby certify that on the date specified below, this correspondence is being deposited with the United States Postal Service as first-class mail addressed to the Commissioner for Patents, Alexandria, VA 22313.

October 19, 2004
Date

Cori N. Lanman
Cori N. Lanman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/892,876	Confirmation No.:	2241
Applicant:	NEAH POWER SYSTEMS, INC.		
Filed:	July 16, 2004		
Title:	FUEL CELLS HAVING CROSS DIRECTIONAL LAMINAR FLOWSTREMS		
TC/A.U.:	~~1746~~ 1745 Yuan		
Examiner:	Not yet assigned		
Docket No.:	690089.406		
Cust. No.:	31740		

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

PETITION TO MAKE SPECIAL

Sir:

This is a petition to have the above-identified application accorded "special" status under 37 CFR 1.102(c). For the reasons set forth below, the subject invention will materially enhance the quality of the environment and will materially contribute to the development and conservation of energy resources (*see* MPEP §§ 708.02 V-VI).

In brief, the subject invention relates generally to fuel cells and, more specifically, to microfluidic electrochemical and fuel cell systems having two or more adjacent and cross-flowing (*i.e.*, non-parallel) laminar flowstreams positioned within a flow cell of an electrode pair assembly. As is appreciated by those skilled in the art, a fuel cell is an energy conversion device that consists essentially of two opposing

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Alexandria, VA 22313-1450
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THOMAS LOOP
PO BOX 21466
SEATTLE WA 98111

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OFFICE OF PETITIONS

In re Application of	:	
Wine, et al.	:	
Application No. 10/892,876	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 690089.406	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 June 27, 2005. 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 July 28, 2005. A Notice of Abandonment was mailed on February 27, 2006.

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.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on April 28, 2006 was subsequent to the maximum period obtainable for reply (December 27, 2005), this fee has been refunded to petitioner's Deposit Account 50-3382.

The matter is being forwarded to Group Art Unit 1745 for consideration of the response to restriction requirement, filed April 28, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SEATTLE WA 98111

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OFFICE OF PETITIONS

In re Application of	:	
Wine, et al.	:	
Application No. 10/892,876	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 690089.406	:	

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 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance, mailed April 30, 2007. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the above-identified application became abandoned on July 31, 2007. The Office mailed a Notice of Abandonment was mailed on August 23, 2007.

With the instant petition, the Office did not receive petitioner's payment of the petition fee, issue fee, and publication fee.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DIW Aug-06

LEE, HONG, DEGERMAN, KANG & SCHMADEKA
801 S. FIGEUROA ST, 14TH STREET
LOS ANGELES CA 90014

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OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/892,879	:	ON PETITION
Filed: 16 July, 2004	:	
Attorney Docket No. 2080-3-59-D1	:	

This is a decision in reference to the "PETITION TO ADJUST RESPONSE DATE FOR OFFICE ACTION" filed on 22 May, 2006, which is treated as a petition requesting the remailing of the Office action mailed on 13 December, 2005.

The petition is **DISMISSED**.

The application is **abandoned**.

This application became abandoned on 14 March, 2006, for failure to submit a timely response to the non-final Office action mailed on 13 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners assert that the Office action mailed on 13 December, 2005, was not timely received because it was not mailed to the correct address. Specifically, petitioners assert that it was mailed to counsel's previous address of 221 North Figueroa St, 11th Floor, Los Angeles, CA 90012 ("the North Figueroa address"), rather than the current address of 801 South Figueroa St, 14th Floor, Los Angeles, CA 90017 ("the South Figueroa address").

Petitioners further aver that the application papers as filed listed the South Figueroa address as the correspondence address, and, additionally, that a Change of Correspondence Address was

filed on 15 November, 2004, requesting the address be changed to the South Figueroa address.

A review of the record reveals that on 16 July, 2004, the instant application was filed, with the first page of the specification listing the North Figueroa address. Additionally, a declaration under 37 CFR 1.63 was filed, appointing Jonathan Y. Kang, Amit S. Sheth, Richard K. Yoon, Edward Gray, David Makous, and John S. Christopher as attorneys of record and stating that all correspondence should be addressed to the North Figueroa address.

Additionally, on 16 July, 2004, petitioners filed an "Associate Power of Attorney" signed by attorney Kang, stating "[a]ll correspondence should be sent to the undersigned" and containing the South Figueroa address, as well as a preliminary amendment signed by registered practitioner Lew Edward V. Macapagal listing the South Figueroa address.

On 15 November, 2004, a paper was filed, signed by attorney Macapagal, requesting the address be changed to the South Figueroa address.

MPEP 403 states, in part:

> 37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application. The correspondence address must appear either in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with an application filing. Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover, for example, the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration.

MPEP 403.01 states, in part:

> The associate attorney may specify or change the correspondence address to which communications about the application are to be directed. Associate powers of attorney are not accepted after June 25, 2004, but any associate power of attorney filed before June 25, 2004 will continue to have effect.

MPEP 601.03 states, in pertinent part:

> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

Petitioner's argument has been considered, but is not persuasive. At the outset, as stated in MPEP 403, the Office has discretion to choose which address to use as the correspondence address, where, as here, when conflicting addresses are provided. Here, the Office chose the address contained on the declaration, which was the first-provided address.

Moreover, associate powers of attorney were no longer being accepted on 16 July, 2004. As such, the associate power of attorney filed on 16 July, 2004, was not accepted. Additionally, neither this paper, nor the preliminary amendment signed by attorney Macapagal, clearly stated that a change of correspondence address was request, or stated that the South Figueroa address should be used rather than the North Figueroa address provided on the declaration.

Further, the paper filed by attorney Macapagal on 15 November, 2005, was not a proper change of correspondence address because Macapagal was not an attorney of record. In this regard, while it is noted that the paper filed on 15 November, 2004, states that "It is certified that the person whose signature appears below has the authority to change the correspondence address for the patent," MPEP 402 states:

> A person acting in a representative capacity may not sign (A) a power of attorney (37 CFR 1.32(b)(4)), (B) a document granting access to an application (except where an executed oath or declaration has not been filed, and the patent practitioner was named in the papers accompanying the application papers - 37 CFR 1.14(c)), **(C) a change of correspondence address (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application - 37 CFR 1.33(a))**, (D) a terminal disclaimer (37 CFR 1.321(b)(1)(iv)), or (E) a request for an express abandonment without filing a continuing application (37 CFR 1.138(b)).
>
> (emphasis added)

As there is no showing that Macapagal was appointed as an attorney of record as of 15 November, 2004, he was not authorized, despite petitioner's assertion to the contrary, to change the correspondence address.

As such, the mailing of the Office action mailed on 13 December, 2005, to the North Figueroa address rather than the South Figueroa address prior to the mailing of the Office action mailed on 13 December, 2005, was not an Office error. Rather, petitioners failed to file a proper change of correspondence address prior to the mailing of the Office action mailed on 13 December, 2005.

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

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[1] 37 CFR 1.181(f).

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

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

The application is being referred to the Technology Center for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 2300
660 S. FIGUEROA STREET
LOS ANGELES, CA 90017

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OFFICE OF PETITIONS

In re Application of Kim and Park :
Application No. 10/892,879 : Decision on Petition
Filing Date: July 16, 2004 :
Attorney Docket No. 2080-3-59O1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 13, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 14, 2006. A Notice of Abandonment was mailed on August 21, 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 2627 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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660 NEWPORT CENTER DRIVE, SUITE 1600
P.O. BOX 7680
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
BURKE, et al.	:	
Application No. 10/892,884	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. 14395-0015	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 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 Monique Heyninck on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Brian Cox**
MicroVention, Inc.
75 Columbia, Suite A
Aliso Viejo, CA 92656

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2000 BERING DRIVE
SUITE 700
HOUSTON, TX 77057

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OFFICE OF PETITIONS

In re Application of
Mark L. Guidry :
Application No. 10/892,892 : ON PETITION
Filed: July 16, 2004 :
Attorney Docket No. TIMCO-001 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 26, 2006, 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 November 30, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. Petitioners were notified in an advisory action mailed April 5, 2006 that a response filed February 28, 2006 did not place the application in condition for allowance. Thus, the application became abandoned March 3, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

In response to the Final Office Action mailed November 30, 2005, petitioner has submitted

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

a Request for Continued Examination (RCE) and requests that the amendment previously submitted on February 28, 2006 be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3652 for processing of the RCE and submission.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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OFFICE OF PETITIONS

In re Application of :
Robert M. Ricketts, et al. :
Application No. 10/892,895 :
Filed: July 16, 2004 :
Attorney Docket No. 1029-360-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed October 5, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 6, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The request for continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. Accordingly, the RCE submitted on March 7, 2005 is improper and will not be processed. In view of the above, the $395.00 fee submitted for the RCE is unnecessary and will be credited to petitioner's deposit account as authorized.

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 drawings; (2) the petition fee; (3) an adequate statement of unintentional delay. Accordingly, the petition filed June 28, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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David F. Zinger
1560 Broadway, Suite 1200
Denver, CO 80202-5141

MAILED

NOV 30 2005

Director's Office
Group 3700

In re Application of	:	
Tocher	:	
Serial No. 10/892,896	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO MAKE SPECIAL

For: HABITAT FRIENDLY, MULTIPLE IMPELLOR, WIND ENERGY EXTRACTION

Applicant's petition, filed August 05, 2004, 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

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 11/28/05

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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SEP 29 2006
OFFICE OF PETITIONS

David Silva
2740 Spirit Rock Trail
Reno, NV 89511

In re Application of Silva	:	
Application No. 10/892,901	:	Decision on Petition
Filing Date: July 17, 2004	:	
For: Claw Clip Hair Fastener	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed March 31, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 1, 2005. A Notice of Abandonment was mailed on November 30, 2005.

The instant petition requests revival of the application.

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

The payments for extensions of time were made after the application became abandoned. A payment for an extension of time is unnecessary when reviving an application. Therefore, the Office will schedule a refund of the total of $570 paid for extensions of time.

Technology Center Art Unit 3732 will be informed of the instant decision and the application, including the amendment filed September 1, 2005, 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

OIPE
JUN 13 2006
PATENT & TRADEMARK OFFICE

PTO/SB/22 (12-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional)
Application Number 10/892,901	Filed July, 17, 2004
For Claw Clip Hair Fastener	
Art Unit 3732	Examiner Stephanie Willatt

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$120	$60	$
☐ Two months (37 CFR 1.17(a)(2))	$450	$225	$
☒ Three months (37 CFR 1.17(a)(3))	$1020	$510	(balance due) $285.00
☐ Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐ Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☒ Applicant claims small entity status. See 37 CFR 1.27.

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☒ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☐ attorney or agent of record. Registration Number _____

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Signature _____ Date _____

David Silva
Typed or printed name

775 853-1272
Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Adjustment date: 09/29/2006 CKHLOK
10/06/2005 KCOOPER1 00000001 10892901
01 FC:1252 -225.00 OP

06/14/2006 RFEKADU1 00000011 10892901
02 FC:2253 285.00 OP

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10892901

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
06/14/2006	00000020	1	2453	$750.00	06/13/2006	CK
06/14/2006	00000021	1	2253	$285.00	06/13/2006	CK
10/06/2005	00000001	1	1252	$225.00	09/30/2005	CC
07/07/2005	00000015	1	2251	$60.00	07/05/2005	CK
07/20/2004	00000164	1	2001	$385.00	07/17/2004	CK

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Makoto Katagishi et al.	:	
Application No. 10/892,907	:	DECISION GRANTING PETITION
Filed: July 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16869S-124000US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 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 November 20, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petition 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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Deborah M. Altman
PPG Industries, Inc.
Law Department – Intellectual Property
One PPG Place – 39th Floor
Pittsburgh, PA 15272-0001

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Dennis L. Faler et al.	:	
Application No. 10/892,919	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. 1955A1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 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 25, 2006. A Notice of Abandonment was mailed on October 4, 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 and election, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

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 1752 for appropriate action by the Examiner in the normal course of business on the reply received February 28, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

In the United States Patent and Trademark Office

Application No.: 10/892,929
Application Filing Date: 7-16-04
Applicant: Snow, David
Title: Washing Machine Water Level Controller
Application Mailed:
Group Art Unit: 1746
Husband, Sarah

PETITION TO MAKE SPECIAL

June 17, 2004

Assistant Commissioner for Patents
Washington, DC 20231

Please make the attached application special.

The reason for making special this application is that the invention disclosed in the accompanying application for patent will MATERIALLY CONTRIBUTE TO THE CONSERVATION OF ENERGY RESOURCES, per 37 CFR § 1.102(c).

A declaration in support of this Petition to Make Special is attached to this paper.

Very Respectfully Submitted,

David Snow

1/20/2004 ARDOFD1 00000003 10892929
! FC:1460 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
AUG 3 0 2005

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Baker et al.	:	
Application No. 10/892,932	:	DECISION GRANTING PETITION
Filed: July 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MIT.10140	:	

This is a decision on the petition, filed August 10, 2007, 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 July 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.

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 3, 2008, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2615 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/892,932	07/16/2004	Michael W. Baker	MIT.10140

CONFIRMATION NO. 4128

55740
GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

Date Mailed: 09/25/2007

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

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

The projected publication date is 01/03/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

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MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerson et al.	:	DECISION ON PETITION
Application No. 10/892,933	:	TO WITHDRAW
Filed: July 16, 2004	:	FROM RECORD
Attorney Docket No. 40032-007001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 14, 2009.

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

A review of the file record indicates that on June 12, 2009 the power of attorney to Mirick, O'Connell, Demallie & Lougee, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Occhiuti Rohlicek & Tsao, LLP
10 Fawcett Street
Cambridge MA 02138

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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

2/25/09

In re Application of:
Neogi, Raja
Serial No. 10/892,940
Filed: Jul. 15, 2004
Docket: ITL.1790US (P19894)
Title: DYNAMIC INSERTION OF PERSONALIZED CONTENT IN ONLINE GAME SCENES

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petitions filed Feb. 14, 2008 under 37 CFR 1.181 requesting supervisory review of the advisory action mailed Oct. 31, 2007. In the petition, petitioner requests entry of the amendment after final filed on Oct. 19, 2007 under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The examiner was requested to enter the amendment after final filed on Oct. 19, 2007 for appeal purposes because the amendment neither raised new issues nor added new claims. A review of the final rejection shows that all claims were rejected. In addition, the examiner objected claims 8 and 20 and suggested the applicant re-write the preamble of the claims 8 and 20 in order to overcome the objection. In the present amendment under 37 CFR 1.116, the applicant merely re-writes the preamble of the claims as suggested by the examiner without any changes of scope to reduce the appealable issues. Therefore, there is no reason not to enter the amendment after final for appeal purposes. All claims still remain rejected as stated in the final Office action.

In finding petitioner's points of argument persuasive, the requested relief is granted. The advisory action mailed on Oct. 31, 2007 is hereby vacated. The examiner has been directed to issue a new advisory action not inconsistent with the present decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/07

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/892941** Patent No.: **7124996**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE — **Art Unit** 3753

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OFFICE OF PETITIONS

Roberta M. Fay
P.O. Box 11355
Marina del Rey, CA 90295-7355

In re Application of	:	
Maureen D.M. Haupt	:	
Application No. 10/892,943	:	DECISION ON PETITION
Filed: July 16, 2006	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 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 Roberta M. Fay, sole attorney of record.

Roberta M. Fay has been withdrawn as attorney of record.

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

All future correspondence will be directed to the first named inventor Maureen D.M. Haupt at the address indicated below.

There is an outstanding Office action mailed July 26, 2006 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Maureen D.M. Haupt**
1524 15th Street, #2
Santa Monica, CA 90404

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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
10/892,943	07/16/2004	Maureen D. M. Haupt	

CONFIRMATION NO. 4102

OC000000021374417

OC000000021374417

Roberta M. Fay
P.O. Box 11355
Marina del Rey, CA 90295-7355

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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Patrick W. Rasche
Armstrong Teasdale, LLP
One Metropolitan Square, Suite 2600
St. Louis, MO 63102

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of
Robert Cantwell
Application No.: 10/892,954
Filed: July 16, 2004
Attorney Docket No.: NRTH-P109C1

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed December 13, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained as indicated by the Notice of Abandonment mailed June 27, 2005. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on March 14, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed December 13, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of December 13, 2005 is accepted as having been unintentionally delayed.

It is noted that the image file wrapper for this application contains an annotation that the power of attorney filed January 6, 2006 "will be rejected, no certificate enclosed." 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.

The application file is being referred to Technology Center AU 3637.

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: MIYAZAKI et al.
Application No. 10/892,957
Filed: July 16, 2004
For: STORAGE SYSTEM MANAGING METHOD AND COMPUTER SYSTEM

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

This is a response to the petition filed 08 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 08 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish the independent claims from the references are not in these claims. Some examples follow.

-Claims 1 and 17 fail to specify "registering the volume allocated in said user management information as a volume to be managed by the user of said user information *included in the volume allocation request*" (emphasis added).

-Claims 9 and 20 fail to specify "registering or updating the volume allocated in said user management information as a volume to be managed by the user of said user information included in the volume allocation request."

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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Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
Fumi MIYAZAKI et al
Application No. 10/892,957
Filed: July 16, 2004
For: STORAGE SYSTEM MANAGING METHOD AND COMPUTER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on November 03, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of November 03, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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AUG 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Milton S. Gerstein
Much Shelist Freed
Suite 1800
191 N. Wacker Drive
Chicago IL 60606

In re Application of
Daniel C. Wonak, et al.
Application No. 10/892,971
Filed: July 19, 2004
For: **APPARATUS FOR WIRELESSLY-COUPLING A BLUETOOTH-WIRELESS CELLULAR MOBILE HANDSET TO A DOCKING STATION FOR CONNECTING A STANDARD TELEPHONE SET TO THE CELLULAR NETWORK**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 1, 2005, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Petitioner's submission is deficient in that a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, if not already of record, has not been provided.

37 CFR 1.98. Content of information disclosure statement, states in part:...

(d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, <u>even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless</u>:

(1) <u>The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120</u>; and

(2) <u>The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section</u>. [emphasis added]

Petitioner did not provide an IDS and no electronic IDS submission is evident in the record. Moreover, the subject application does not provide a proper reference to an earlier filed application for 35 U.S.C. §120 benefit. Therefore, petitioner's statement that "The most closely-related and pertinent prior art to the subject matter encompassed by the claims of the present application are already of record, as being part of the parent application of the present application" is insufficient to satisfy the requirements of a grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement).

Accordingly, the petition is **DENIED**.

Any request for reconsideration of this decision must be filed within two months of the mailing date of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Daniel C. Wonak, et al.
Application No. 10/892,971
Filed: July 19, 2004
For: **APPARATUS FOR WIRELESSLY-COUPLING A BLUETOOTH-WIRELESS CELLULAR MOBILE HANDSET TO A DOCKING STATION FOR CONNECTING A STANDARD TELEPHONE SET TO THE CELLULAR NETWORK**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the request for reconsideration filed September 19, 2005, regarding applicants' original petition to grant special status in accordance with 37 CFR §1.102(d) and pursuant to MPEP §708.02, section II (Infringement).

A review of the application file reveals that the original petition filed August 1, 2005 was denied due to the original petition's failure to include a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, had not been provided. It was noted that petitioner did not provide an IDS, nor was an electronic IDS submission of record. Although the original petition did state that the most closely-related and pertinent art was of record in the parent application, a proper 35 U.S.C. §120 priority benefit claim was not found.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Along with the request for reconsideration, applicants amended their specification to include proper claim for priority and also submitted an IDS with the most relevant reference. Therefore, when taken together, the original petition filed August 1, 2005 and the request for reconsideration of September 19, 2005, satisfy the requirements above.

Accordingly, the petition is **Granted**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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OMAHA, NE 68154

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JUN 1 1 2009

OFFICE OF PETITIONS

In re Application of Bran Ferren, et. al. Application No. 10/892,974 Filed: July 16, 2004 Attorney Docket No. 1103-007-011b-000000	: : : : : :	ON PETITION

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

The application became abandoned for failure to file a proper reply to the final Office action mailed May 7, 2007.

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). The instant petition lacks item(s) (1).

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).

A review of the record fails to disclose a response to the Advisory Action mailed February 14, 2008. Therefore revival of the instant application cannot occur until a proper reply has been received. A courtesy copy of the February 14, 2008 Office action is enclosed with this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action of February 14, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/892,974	07/16/2004	Bran Ferren	1103-007-011B-000000	2960

71484 7590 02/14/2008
IV - SUITER SWANTZ PC LLO
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OMAHA, NE 68154

EXAMINER
RAO, SHEELA S

ART UNIT	PAPER NUMBER
2128	

MAIL DATE	DELIVERY MODE
02/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/892,974	Applicant(s) FERREN ET AL.	
	Examiner SHEELA RAO	Art Unit 2128	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 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 6 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: 1-45.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). filed on 10/1/07
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the newly added limitations require further search and consideration as they are newly presented.

Continuation of 12. The references submitted on form PTO-1449, filed on 1 October 2007 have been considered. A signed copy of the IDS is attached.

KAMINI SHAH
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of Bran Ferren, et. al. Application No. 10/892,974 Filed: July 16, 2004 Attorney Docket No. 1103-007-011b-000000	:	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

In response to the decision mailed June 11, 2009, petitioner submits the present renewed petition with a Notice of Appeal and $540 fee on July 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and $540 fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of an Appeal Brief and $540 fee received on August 5, 2009.

This application file is being referred to Technology Center Art Unit 2123 for further processing in accordance with this decision.

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT 14 2004

In re Application of	:	
Kenneth B. ErkenBrack	:	
Serial No. 10/893,004	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO MAKE SPECIAL
For: ATMOSPHERIC AND/OR	:	
DIFFERENTIAL PRESSURE	:	
CLOSURE FOR AN EVACUABLE	:	
STORAGE CONTAINER	:	

Applicant's petition, filed July 16, 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

Brad Goldizen, PC
505 S. Independence Blvd., Suite 102
Virginia Beach, VA 23452

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Stephen H. Doctor
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300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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JOEL REAGAN COX
1006 W 104TH AVE #164
NORTHGLENN CO 80234

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Joel Reagan Cox	:	
Application No. 10/893,036	:	DECISION ON PETITION
Filed: 07/16/2004	:	
Title: Transmission quill repair sleeve	:	

This is a decision on the petition filed October 30, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

On December 13, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. A reply was received in the USPTO on June 13, 2006; however, the reply included only a request for an extension of time for response within the third month. In the apparent absence of a proper and bona fide reply, the application became abandoned on June 14, 2006. On July 21, 2006, the Office mailed a Notice of Abandonment.

Applicant asserted that he filed a timely and complete reply to the nonfinal Office action on June 13, 2006. A copy of the reply accompanied the petition. Upon a review of the record, the Office located the response to the nonfinal Office action submitted on June 13, 2006. Due to an error by the USPTO, the reply was erroneously placed in an incorrect application file. Accordingly, the petition to withdraw the holding of abandonment is **granted**. The holding of abandonment is hereby withdrawn. The reply of June 13, 2006, has been transferred to the present application. Therefore, the application is restored to pending status in view of the fact that a response to the nonfinal Office action was filed timely and received in the USPTO on June 13, 2006.

The matter is being referred to the Technology Center Art Unit 3681.

Telephone inquiries concerning this matter may 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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JJGJR.: 01-05

Paper No: __

PAUL H. DEMCHICK
THE JACOB TOMLINSON HOUSE
407 WEST BROAD STREET
WILSON NC 27893

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Mizhari :
Application No. 10/893,038 : DECISION ON PETITION
Filing Date: 16 July, 2004
Attorney Docket No. (None) :

This is a decision on the petition filed on 14 October, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 16 July, 2004, for Fig. 11, as described in the specification of the application.

(NOTE: The petition indicates that the copy of Fig. 11 provided is "essentially identical to that filed with the application"–Petitioner supplemented his petition on 18 January, 2005, to state that the copy of Fig. 11 is, in fact, identical to that alleged to have been deposited on 16 July, 2004.)

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 16 July, 2004.

On 7 October, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," (the 7 October Notice) and indicated, *inter alia*, that a filing date had granted.

The 7 October Notice also informed Petitioner that the application would receive the filing date

consistent with the submission of required drawings, or that Petitioner might evidence that the papers in question were deposited with the application.

The petition filed on 14 October, 2004, states that it is accompanied, *inter alia*, by a date-stamped receipt card itemizing the contents of the application received by the Office and copy of Fig. 11 as described in the specification.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 16 July, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("071604") and provides, *inter alia*:

* * *

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Non-Provisional U.S. Patent Application fo an invention entitled: "Clothes Dryer" invented by Benny Mizhari (25 written pages, 11 sheets of drawings)

* * *

The record further discloses that:

- the 10 sheets of drawings contained in the file prior to the filing of the petition are sequentially numbered, Fig. 1 - Fig. 10, and there are no duplicate figures;
- while the one sheet of drawings submitted with the petition is numbered Fig. 11;and
- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 11 sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the 11 sheets of drawings (containing Figs. 1 through and including Fig. 1) as described in the specification were submitted on 16 July, 2004, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived and is refunded to Deposit Account 50-2684; and the Notice mailed on 7 October, 2004, hereby is withdrawn as to the one sheet of drawings containing Fig. 11 as described in the specification.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 16 July, 2004, for the entire application and in particular for Fig. 11 of the 11 sheets of drawings (containing Figs. 1 - 11) as described in the specification using:

- pages 1 - 25 (Specification, Claims, Abstract) and Figs. 1 - 10 deposited on 16 July, 2004; and
- the Fig. 11 as described in the specification, deposited on 14 October, 2004;
- with direction to OIPE to correct Office records to reflect that 25 pages of specification (description, claims and abstract) and 11 sheets of drawings were present on filing on 16 July, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 16 July, 2004, reflecting therein that 25 pages of specification (description, claims and abstract) and 11 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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The Jacob Tomlinson House
407 West Broad Street
Wilson, NC 27893

MAILED

MAY 1 2 2005

Director's Office
Group 3700

In re Application of
Benny Mizhari
Serial No. 10/893038
Filed: July 16, 2004

DECISION ON PETITION
TO MAKE SPECIAL

For: CLOTHES DRYER

Applicant's petition, filed July 16, 2004, 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, Director
Technology Center 3700

rt/ 5/11/05

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

Dale Kosted, D.V.M.
3502 King St.
Enid OK 73703

COPY MAILED

JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Dale Kosted :
Application No. 10/893,055 : ON PETITION
Filed: July 19, 2004 :
Attorney Docket No. :

This is in response to the communication, filed February 19, 2008, regarding the abandonment of the above-identified application, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 (NO FEE).

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within **two (2)** months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The application became abandoned for failure to timely pay the Issue and Publication fees on or before December 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2007, which set a statutory period for reply of three (3) months. The payment of $1,000 towards the Issue and Publication Fee was received by the Office on December 26, 2007 and thus the payment was not timely. Accordingly, the application became abandoned on December 22, 2007.

Furthermore, the Notice of Allowance and Fee(s) Due, mailed September 21, 2007, required under "HOW TO REPLY TO THIS NOTICE", PTOL- 85 PART B - FEE(S) TRANSMITTAL(page 2 of 3 in the Notice of Allowance and Fee(s) Due), or its equivalent, "must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B". A review of the records at USPTO fails to show that the form PTOL-85 PART B was completed and returned to the office. If the applicant

has evidence that such has been submitted timely, the applicant is urged to include such evidence in any renewed petition filed in response to the instant decision.

Petitioner contends that the application went abandoned due to no fault on applicant's part. Specifically, petitioner states "when the U.S.P.T.O. sends out a NOTICE OF ALLOWANCE AND FEES DUE that this is a CONTRACT which cannot be altered without notifying the Applicant of that if they don't pay the fees immediately that they may be subject to an unknown increase which may cause "abandonment" of the application and the three months which is shown in the Notice may or may not be applicable". However, **because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge.** See, e.g., Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380, 385 (1947); Timber Access Industries Co. Inc. v United States, 553 F.2d 1250, 1255 (Ct. Cl. 1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir. 1975), cert. denied, 423 U.S. 873 (1975); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973). **Furthermore, it is well settled that "all persons are charged with knowledge of the provisions of the statutes and must take note of the procedure adopted by them."** Rydeen v. Quigg, 748 F. Supp. 900 at 907, 16 USPQ2d 1876, at 1881 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), cert. denied, 502 U.S. 1075 (1992)(quoting North Laramie Land Co. v. Hoffman, 268 U.S. 276, 285 (1925)). The fee increases associated with Publication and Issue Fees that went into effect on September 30, 2007, have been published in the Federal Register (see 72 Fed. Reg. 46899).

ALTERNATIVE VENUE

If the applicant lacks any evidence of timely submission of the payment of Issue and Publication Fees, the applicant is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

In regard to the instant submission, a grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The petition fee as set forth in 37 CFR 1.17(m), **$770.00 for a small entity**;

(2) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $770.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through

Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy

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.

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. 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.

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.

OIPE IAP98
FEB 19 2008
PATENT & TRADEMARK OFFICE

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

APPLICATION NO.: 10/893,055
FILING DATE: 07/19/2004
INVENTOR: Dale Kosted, APPLICANT PRO SE
EXAMINER: Marie D. Patterson
ART UNIT: 3728
CONFIRMATION NO.: 3815

To the Attention of: Raul Tanayo, O.P.L.A.

Date: 02/12/08

Re: Application was caused to go into abandonment due to NO FAULT of Applicant, Dale Kosted.

Dear Sir,

Per our telephone conversation on 02/04/08 we discussed "how" my Patent Application was caused to go into abandonment due to "no fault" of mine for insufficient payment of Fees Due, (i.e., an additional $20.00). A NOTICE OF ALLOWANCE AND FEES DUE was mailed to me showing the Final Dues as being $1000.00.

In good faith, I sent a check, (i.e., Check #805) for the total amount shown in the Notice of Allowance and Fees Due. However, when I called and discussed the Notice of Abandonment with personnel at the U.S.P.T.O. I was informed that the fees paid were insufficient for the amount of $20.00 due to an increase in fees which took place 09/30/07.

I was also informed that if I had paid the fees prior to this date then no additional fee other than the $1000.00 would have been necessary. Since, I chose to wait until after 09/30/07 I should have paid the additional $20.00 to cover the increase in fees. I was also informed that most Patent Attorneys are aware of the usual increase of fees which takes place at the end of September. I told the U.S.P.T.O. personnel, to whom I was talking with, that unless the U.S.P.T.O. sent out letters informing applicants of the increase in fees due after 09/30/07 that to cause Patent Applications to go into ABANDONMENT was unfair and unavoidable.

I feel that when the U.S.P.T.O. sends out a NOTICE OF ALLOWANCE AND FEES DUE that this is a CONTRACT which cannot be altered without notifying the Applicant of that if they don't pay the fees immediately that they may be subject to an unknown increase which may cause "abandonment" of the application and the three months which is shown in the Notice may or may not be applicable.

Adjustment date: 02/20/2008 SSITHIB2
12/27/2007 SSESHE2 00000009 10893055
02 FC:1506 -700.00 OP

02/20/2008 SSITHIB2 00000019 10893055
01 FC:2501 720.00 OP

Therefore, I have enclosed a check for $20.00 to cover the additional fees. Since the U.S.P.T.O. has already deposited my check for $1000.00, I respectfully request that no additional fees to Petition are required.

Sincerely,

Dale Kosted DVM

Dale Kosted, D.V.M.
Applicant Pro Se

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

COPY MAILED

SEP 1 2 2008

OFFICE OF PETITIONS

Dale Kosted, D.V.M.
3502 King St.
Enid, OK 73703

In re Application of	:	
Dale Kosted	:	
Application No. 10/893,055	:	DECISION ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2008, with a certificate of mailing dated August 5, 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 December 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2007. Accordingly, the date of abandonment of this application is December 22, 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 $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Accordingly, the failure to timely pay the Issue and Publication fees as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2007, is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272 - 4914.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE AUG 23 2008 PATENT & TRADEMARK OFFICE

OIPE IAP10 AUG 0 8 2008 PATENT & TRADEMARK OFFICE

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PTO/SB/64 (01-08)
Approved for use through 08/30/2008. 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: Dale Kosted

Application No.: 10/893,055 Art Unit: 3728

Filed: 07-19-2004 Examiner: Marie D. Patterson

Title: Footwear incorporating a self-locking sock

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 $ 770.00 (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 Issue Fee (identify type of reply):
☒ has been filed previously on 12/15/07.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ [redacted] $1020.00 - $1000.00 12/15/07
20.00 2/16/08
☒ 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.

08/11/2008 SSANDARA 00000009 10893055

01 FC:2453 770.00 OP

Unintentional Delay

Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application Number: 10/893,055

Dear Sir:

I am respectfully submitting this request for unintentional delay on my Patent Application 10/893055. I mailed my Issue fee of $1000.00 prior to the due date of 12/21/2007. However, due to the Christmas mail it arrived later than was required. Also, due to the increase in Issue fees Applicant was unaware of the additional $20.00. This too caused me to be insufficient in the payment of Issue fee.

I have enclosed the required $770.00 for this Petition of Revival plus the $20.00 has already been sent, and deposited by the USPTO. ~~Insufficiency.~~

Sincerely Applicant,

Dale Kosted

Dale Kosted

O I P E IAP10
AUG 0 8 2008
PATENT & TRADEMARK OFFICE

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. 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.

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.

Dale Kosted, D.V.M. — Signature
8-4-8 — Date

Dale Kosted, D.V.M — Typed or printed name
_____ — Registration Number, if applicable

3502 King St. — Address
580-237-9999 — Telephone Number

ENID, OK, 73703 — Address

Enclosures:
[X] Fee Payment
[X] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay
[ ] Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

[X] 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.

8/5/08 — Date

Dale Kosted, D.V.M. — Signature

Dale Kosted, D.V.M. — Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 2 5 2006

Technology Center 2100

In re Application of: YAGAWA, YUICHI
Application No. 10/893,068
Filed: 16 July 2004
For: METHOD AND APPARATUS FOR SECURE DATA MIRRORING A STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on Applicant's petition filed 20 July 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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United States Patent and Trademark Office
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

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DEC 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
SANKARAN	:	
Application No. 10/893,071	:	DECISION GRANTING
Filed: July 17, 2004	:	37 CFR 1.10(c) PETITION
Attorney Docket No. 100101-001100US	:	

This is a decision on the petition filed March 17, 2006, requesting that the above-identified application be accorded a filing date of July 17, 2004, rather than the presently accorded date of July 14, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on July 17, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express mail label No. ER 535397864US, showing a handwritten "date-in" of July 14, 2004, as well as a stamped USPS date of July 17, 2004. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service error and the correct date of mailing pursuant to 37 CFR 1.10 is July 17, 2004. The same Express Mail number appears on the original transmittal papers found in the application file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on July 17, 2004, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of July 17, 2004, and has been so accorded.

In view of the above, the petition is **GRANTED**.

The $400 fee filed with the petition has been credited back to petitioner's deposit account.

This application file is being referred to the Office of Initial Patent Examination (OIPE) **for processing with a filing date of July 17, 2004**. A corrected Filing Receipt has been mailed under separate cover.

Telephone inquiries relating to this decision should be directed to Amelia Au at (571) 272- 7414. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MATTINGGLY, STANGER & MALUR, P.C.
Suite 370
1800 Diagonal Road
Alexandria VA 22314

COPY MAILED
AUG 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Matsunami et al.	:	
Application No. 10/893,095	:	ON PETITION
Filed: July 14, 2004	:	
Title of Invention: COMPUTER SYSTEM	:	

This is a decision on the petition under 37 CFR 1.55(c), filed January 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Japanese Application No. 11-249642, filed September 3, 1999.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this decision on petition may be directed to Derek Woods at (571) 272-3232.

Frances Hicks
Lead Paralegal
Office of Petitions

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Matsunami et al.	:	
Application No. 10/893,095	:	DECISION ON PETITION
Filed: 07/14/2004	:	UNDER 37 CFR 1.55(c)
Title of Invention: METHOD AND SYSTEM	:	
OF MANAGING AN ACCESS TO A	:	
STORAGE SYSTEM IN A COMPUTER	:	
SYSTEM	:	

This is a decision on the "Request for Reconsideration of Decision on Petition Dated August 16, 2006", filed October 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Japanese Application No. 11-249642, filed September 3, 1999. The petition is properly treated under 37 CFR 1.55(c).

The petition is **GRANTED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;

(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Applicant contends in his request for reconsideration, that 37 CFR 1.55(c) does not require the claim [for priority] to be included either in an oath or Declaration or in an Application Data Sheet ("ADS") in order for the petition to be granted.

Applicant cites to 37 CFR 1.55(c), which states that

> Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)- (d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:
>
> (1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
> (2) The surcharge set forth in § 1.17(t); and
> (3) A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

<u>Analysis</u>

A review of the application file reveals that applicant had not submitted a claim for priority to foreign Japanese Application No. 11-249642, filed September 3, 1999, prior to filing the present petition. As such, a petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) is required.

Here, a review of the file record fails to disclose that the priority information was included on filing. As stated in the August 16, 2006 Decision dismissing the January 5, 2006 petition, "[u]nless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition.

Compliance with 37 CFR 1.63(c)(2)

Applicant has filed with the present petition a copy of the oath/declaration from application no. 09/523,379, of which the present application is a continuation, the oath/declaration of which contains a claim for priority to foreign Japanese Application No. 11-249642, filed September 3, 1999.

Conclusion

This application was filed on July 14, 2004, which is after November 29, 2000 and claims priority to application no. 09/523,379, filed March 10, 2000, which was filed within 12 months of September 3, 1999 (the filing date of the foreign application to which benefit is now being claimed). On October 16, 2006, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition filed January 5, 2006. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application 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 foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2155 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/893,095	07/14/2004	2155	1088		22	21	3

CONFIRMATION NO. 3930

CORRECTED FILING RECEIPT

OC000000022671371

24956
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

Date Mailed: 02/27/2007

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)

Naoto Matsunami, Sagamihara-shi, JAPAN;
Akira Yamamoto, Sagamihara-shi, JAPAN;
Hideki Kamimaki, Fujisawa-shi, JAPAN;
Masatoshi Ichikawa, Yokohama-shi, JAPAN;
Jun Matsumoto, Tokyo, JAPAN;
Yasuyuki Mimatsu, Fujisawa-shi, JAPAN;
Ikuya Yagisawa, Yokohama-shi, JAPAN;
Masayuki Yamamoto, Sagamihara-shi, JAPAN;

Power of Attorney:

Gene Stockman--21021
Thomas Beall Jr--22410
John Mattingly--30293
Jeffrey Ketchum--31174
Daniel Stanger--32846
Scott Brickner--34553
Shrinath Malur--34663

Domestic Priority data as claimed by applicant

This application is a CON of 09/523,379 03/10/2000 PAT 7,082,462

Foreign Applications

JAPAN 11-066019 03/12/1999

If Required, Foreign Filing License Granted: 09/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/893,095

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM OF MANAGING AN ACCESS TO A STORAGE SYSTEM IN A COMPUTER SYSTEM

Preliminary Class

709

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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 16 2005

Neil John Graham
6017 Lido Lane
Long Beach CA 90803

In re Application of	:	
Neil John Graham	:	DECISION PETITION
Serial No.: 10/893,098	:	
Filed: July 16, 2004	:	
For: Orthodontic Crimping Pliers	:	

This is in response to applicants' petition filed July 16, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (703)273-0275.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/26/2010

Applicant	: Salvatore Curti	: DECISION ON REQUEST FOR
Patent Number	: 7668377	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/893,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1091** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

LADAS & PARRY
SUITE 2100
5670 WILSHIRE BOULEVARD
LOS ANGELES CA 90036-5679

In re Application of :
Monica Minden et al :
Application No. 10/893,105 : ON PETITION
Filed: July 15, 2004 :
Attorney Docket No. B-5495 622019-5 :

This is a decision on the petition, filed August 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 July 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2828 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU CA 90265

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SEP 25 2008
OFFICE OF PETITIONS

In re Patent No. 7,274,717 :
Issue Date: 25 September, 2007 :
Application No. 10/893,106 : ON PETITION
Filed: 15 July, 2004 :
Attorney Docket No. B-5330 621564-5 :

This is a decision on the petition (renewed) filed on 14 February, 2008, expressly for waiver under 37 C.F.R. §1.183, of provisions of 37 C.F.R. §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 under 37 C.F.R. §1.323.

The Office regrets the delay in addressing this matter, however, the instant petition was provided to the attorneys in the Office of Petitions only on this writing.

The petition is **DISMISSED**.

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

> **35 U.S.C. §152 Issue of patent to assignee.**
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

The regulations at 37 C.F.R. §3.81 that set forth the applicable procedure:

> **§ 3.81 Issue of patent to assignee.**
>
> ***
>
> (b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in §

> 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to § 3.28, or a statement under § 3.73(b).
> (c) *Partial assignees.*
>
> ***
>
> > (2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

The commentary at MPEP §1481.01 provides that:

> ***
>
> 1481.01 Correction of Assignees' Names [R-3]
>
> ***
>
> Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee *** must:
>
> > (A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
> > (B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
> > (C) include the processing fee set forth in 37 C.F.R. §1.17(i).
> > See 37 C.F.R. §3.81(b).

CONCLUSION

Certificates of Correction are limited as to the assignee(s) are limited to the record as of the date of issue.

Accordingly, the petition is **dismissed**.

The file is released to IFW Files Repository.

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[1]) 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

---

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORRICK HERRINGTON + SUTCLIFFE LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,971,984 :

Issue Date: December 6, 2005 :

Application No. 10/893,120 : ON PETITION

Filed: July 15, 2004 :

Attorney Docket No. 12866-5

This is a decision on the petition filed May 30, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORSEY & WHITNEY LLP
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Laxminarayan Bhat, et al. :
Application No. 10/893,130 : NOTICE
Filed: July 15, 2004 :
Attorney Docket No. 34473/US/2/AMP/SKS

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the person signing the instant communication was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Timothy A. Worrall appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application file will be directed solely to the address of record.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TIMOTHY A. WORRALL
DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, 3RD FLOOR
SAN FRANCISCO, CA 94104

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Salahieh et al. :
Application No. 10/893,131 :
Filed: 15 July, 2004 :
Atty Docket No. 30207-701.501 :

This is a decision on the petition under 37 CFR 1.182, filed on 29 September, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Amr Salahieh
2. Ulrich R. Haug
3. Hans F. Valencia
4. Robert A. Geshlider
5. Tom Saul
6. Dwight P. Morejohn

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to Technology Center Art Unit 3738 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Arm Salahieh et al	:	
Application No. 10/893,142	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 30207-701.504	:	

This is a decision on the petition under 37 CFR 1.182, filed September 29, 2005, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This matter is being referred to Technology Center AU 3738.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FEB 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Arm Salahieh et al	:	
Application No. 10/893,143	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 30207-701.503	:	

This is a decision on the petition under 37 CFR 1.182, filed September 29, 2005, to change the order of the names of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the names of the inventors accompanies this decision on petition.

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This matter is being referred to Technology Center AU 3738.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Phil Libin	: DECISION ON REQUEST FOR
Patent Number	: 7600129	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1098** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Amr Salahieh et al	:	
Application No. 10/893,151	:	ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 30207-701.502	:	

This is a decision on the petition under 37 CFR 1.182, filed September 29, 2005, to change the order of inventorship.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Thomas W. Holcomb	: DECISION ON REQUEST FOR
Patent Number	: 7580584	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON, NJ 08543-5312

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Dirk Adolph et al	:	
Application No. 10/893,183	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. PD030078	:	

This is a decision on the petition, filed June 16, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed June 26, 2008, which set a three (3) month shortened statutory period for reply. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 27, 2008. Notice of Abandonment was mailed on April 16, 2009.

Petitioner states:

"B. On December 29, 2008, the Applicants mailed a Notice of Appeal and a three month extension under 37 C.F. R. 1.36(a) to advance the prosecution of this application."

"C. The three month period of response under 37 C.F.R. 1.36(a) was extended to December 29, 2008 instead of December 26, 2008 (which would have been the typical ending of a period of response), because the United States Patent Office was closed on December 26, 2008."

The extension of time under 37 CFR 1.136 received January 5, 2009 was not accompany with a proper certificate of mailing.

See 37 C.F.R. § 1.8

> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and Deposited with the U.S. Postal Service with sufficient Postage as first class mail;

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1110 extension of time submitted on January 5, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

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. A blank copy of this form is enclosed.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachments: Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT D. SHEDD, PATENT OPERATIONS
THOMSON LICENSING LLC
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
Dirk Adolph et al :
Application No. 10/893,183 :
Filed: July 16, 2004 :
Attorney Docket No. PD030078 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 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 June 26, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 September 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied on July 13, 2009 (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; on November 17, 2009 (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 2416 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/
Irvin Dingle
Petition Examiner
Office of Petitions

cc: Joel M. Fogelson
Two Independence Way, Suite 200
Princeton, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

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WATERS INVESTMENTS LIMITED
C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD MA 01757

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OFFICE OF PETITIONS

In re Application of :
Scott Geromanos et al. :
Application No. 10/893,212 :
Filed: July 16, 2004 :
Attorney's Docket No. AE-MM-15 C3 :

ON PETITION

This is a decision on the petition filed July 13, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on December 22, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed October 21, 2004, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed July 18, 2005.

The submission of the oath or declaration and late filing fee, as required by the Notice to File Missing Parts mailed October 21, 2004 is acknowledged.

All other requirements having been met, this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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WATERS INVESTMENTS LIMITED
C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD MA 01757

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OFFICE OF PETITIONS

In re Application of:	: DECISION GRANTING PETITION
Geromanos et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/893212	:
Filing or 371(c) Date: 07/16/2004	:
Attorney Docket No. AE-MM-15 C3	:

This is a decision on the "Petition under 37 C.F.R. § 1.78(a)(3) to Accept an Unintentionally Delayed Claim for the Benefit Under 35 U.S.C. § 120 of a Prior-Filed Application," filed October 4, 2007," as set forth in the Application Data Sheet ("ADS"), filed with the present petition.

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 1631 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

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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/893,212	07/16/2004	1631	1454	AE-MM-15 C3	34	4

CONFIRMATION NO. 4090

CORRECTED FILING RECEIPT

43840
WATERS INVESTMENTS LIMITED
C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD, MA 01757

OC000000026844583

Date Mailed: 11/21/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Scott Geromanos, Middletown, NJ;
Ashok R. Dongre, Newton, PA;
Gregory Opiteck, Trenton, NJ;
Jeffrey Silva, Beverly, MA;

Assignment For Published Patent Application

Micromass UK Limited, Manchester, UNITED KINGDOM

Power of Attorney: The patent practitioners associated with Customer Number 43840

Domestic Priority data as claimed by applicant

This application is a CON of 10/497,896 01/10/2005
which is a 371 of PCT/GB02/05571 12/09/2002
which claims benefit of 60/364,847 03/14/2002
and claims benefit of 60/340,460 12/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/893,212**

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Method of mass spectrometer

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 04/21/2010

Applicant	: Paul James Wheatley	: DECISION ON REQUEST FOR
Patent Number	: 7602729	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: 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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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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OFFICE OF PETITIONS

In re Application of	:
Randell L. Mills	:
Application No. 10/893,280	: DECISION GRANTING
Filed: 19 July, 2004	: PETITION
Atty Docket No. 62-226-HI	:

This is a decision in reference to the paper styled as a petition under 37 CFR 1.53 and 1.181 filed on 13 October, 2004, which is treated as a petition requesting that the above identified application be accorded a filing date of 19 July, 2004, with drawings as a part of the original disclosure.

The petition is **granted**.

The application was filed on 19 July, 2004. However, on 21 September, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings as required by 35 U.S.C. § 113. The filing date would be the date that the drawings were received. A two (2)-month period for reply was set.

The present petition was filed on 13 October, 2004, accompanied by a copy, *inter alia*, of Page 390 of the specification of Application 60/491,963 containing three drawing figures collectively labeled "A" and "B", as well as an additional sheet of drawings appearing to contain the same figures, but labeling them Figs, 1A, 1B, and 1C, respectively.

Petitioner asserts that the application claims priority to provisional Application No. 60/491,963, filed on 5 August, 2003, and that the prior-filed provisional application contains the drawings which were inadvertently omitted from the subject application.

A search of the official file reveals that the first sentence of the specification filed on 19 July, 2004, states that, *inter alia*, the complete disclosure of Application No. 60/491,963 "[is] incorporated by reference herein."

Based on petitioner's representation that the drawings which are described in the specification are a part of the disclosure of application No. 60/491,963 and the entire disclosure of application No. 60/491,963 was specifically incorporated by reference in the present application on 19 July, 2004, it appears that the drawings were present in the Office on 19 July, 2004, albeit in the file of another application, *i.e.*, application No. 60/491,963. Therefore, on petition, the application may be accorded the requested filing date.

Office records have been corrected to show the filing date of the present application as 19 July, 2004.

The petition is granted.

However, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

The application will be processed and examined with a filing date of 19 July, 2004, using the application papers filed on that date and the copy of Page 390 of the prior application containing drawings as a part of the original disclosure.

Of course, the primary examiner is expected to compare Page 390 of the prior application containing the drawings supplied on 13 October, 2004, to the disclosure of prior application No. 60/491,963 in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.

The sheet containing the drawings marked Fig. 1A, 1B, and 1C will not be used for processing or examination, but will be retained in the application file. Petitioner may wish to consider submitting this sheet of drawings as a preliminary amendment. If the sheet of drawings containing Figures 1A, 1B, and 1C is submitted as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 19 July, 2004, using the application papers filed on that date and the copy of Page 390 from the prior application containing drawings supplied with the present petition.

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

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ONE CRYSTAL PARK, SUITE 210, 2011
CRYSTAL DRIVE
ARLINGTON, VA 22202-3709

MAIL

SEP 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Lehr, et al. :
Application No. 10/893,289 :
Filed: July 19, 2004 :
For: POWER SUPPLY SUBSYSTEM FOR POWERING A NODE OVER COMMUNICATION CABLING :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 23, 2004, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement),.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Michael Walter Hoche	: DECISION ON REQUEST FOR
Patent Number	: 7594164	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

ROTHWELL, FIGG,
ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Patent No. 7,368,432 :
McIntosh et al :
Issue Date: May 6, 2008 :
Application No. 10/893,300 : LETTER REGARDING
Filed: July 19, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 3580-104 :

This is in response to the "GOOD FAITH AND CANDOR COMMUNICATION," filed September 17, 2008. Pursuant to their duty of good faith and candor to the Office, patentees disclose that an additional day should have been deducting bringing the total patent term adjustment to two hundred eighteen (218) days.

The request for review of the patent term adjustment 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 eighteen **(218)** days.

On May 6, 2008, the application matured into U.S. Patent No. 7,368,432, with a revised patent term adjustment of 219 days. In response, patentees filed the instant comment. Patentees disclose that an additional period of reduction of 1 day is warranted as their response to the restriction requirement was filed on March 13, 2007, not March 12, 2007.

Patentees are correct. A review of the record confirms that the response to the restriction requirement mailed September 15, 2006, was filed on March 13, 2007, three months and 88 days

later. Thus, the correct period of reduction pursuant to 1.704(b) is 88 days, not 87 days as entered. An additional day of applicant delay has been entered to correct this period.

In view thereof, the patent should have issued with a revised patent term adjustment of 218 days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee 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 eighteen **(218)** 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: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,368,432 B2

DATED : **May 6, 2008** **DRAFT**

INVENTOR(S) : McIntosh 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 219 days

Delete the phrase "by 219 days" and insert – by 218 days--

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,553,630	:	
Langley et al.	:	DECISION ON REQUEST
Issue Date: June 30, 2009	:	FOR
Application No. 10/893,323	:	RECONSIDERATION OF
Filed: July 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 06843.0009-100:		
00	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT" filed March 17, 2009.

The application for patent term adjustment is **GRANTED**.

Prior to a decision being rendered, the instant application matured into a patent. 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 three hundred ninety-seven **(397)** days.

Patentee is 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.

On December 30, 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 282 days. The instant application for

patent term adjustment was timely filed[1] on or before payment of the issue fee. Patentee contends that the USPTO incorrectly deducted 115 days based on a supplementary amendment filed at the Examiner's request.
Patentee's argument has been considered, and found persuasive. 37 CFR 1.704(c) provides, in pertinent part, 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, after the filing of a response on August 15, 2008, on December 8, 2008, patentees filed a supplemental response. The record supports a conclusion that this additional response was expressly requested by the examiner. Accordingly, entry of a period of reduction pursuant to 1.704(c)(8) was not warranted. The 115 day period is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of THREE HUNDRED NINETY-SEVEN (397) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the 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 three hundred ninety-seven **(397)** days.

---

[1] PALM records indicate that the issue fee was also paid on March 17, 2009.

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 : 7,553,630

DATED : **June 30, 2009** **DRAFT**

INVENTOR(S) : Langley 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 282 days

Delete the phrase "by 282 days" and insert – by 397 days--

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Paper No. 06092005

JUN 17 2005

DUANE MORRIS LLP
Suite 700
1667 K Street, N.W.
Washington DC 20006

In re Application of:
Patrick J. Treado, et al.
Serial No.: 10/893,331
Filed: July 19, 2004
For: METHOD AND APPARATUS FOR COMPACT BIREFRINGENT INTERFERENCE IMAGING SPECTROMETER

DECISION ON PETITION TO EXPUNGE

This is a decision on the petition filed March 29, 2005, to expunge information submitted unintentionally in an application (other than information forming part of the original disclosure) under to 37 C.F.R. 1.59(b), and M.P.E.P. 724.05, paragraph II.

The petition is GRANTED.

Petitioner asserts that the materials (the single sheet entitled "Spectral Unmixing Patent 4-19-04 JED" submitted on October 14, 2005, were inadvertently included with an Information Disclosure Statement. Petitioner additionally asserts that the information is not material to the examination of this application, has not otherwise been made public, and is proprietary and the failure to obtain its return would cause irreparable harm to the Applicant. The petition is accompanied by the petition fee set forth in 37 C.F.R. 1.17(h).

The petition meets with the requirements for expunging material submitted unintentionally in an application (other than information forming part of the original disclosure) pursuant to M.P.E.P. 724.05, paragraph II.

Accordingly, the petition is granted. The material will be expunged from the record.

Inquiries related to this decision should be directed to Gregory J. Toatley, Jr. at (571) 272-2059.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Document "Spectral Unmixing Patent 4-19-04 JED"

Spectral Unmixing Patent 4-19-04 JED

Summary of related ideas/possible patents with (CI IP status) and -----related activities

[0003] – preventing alterations of prescription and non-prescription drugs: (IP logs only)
[0010] – monitoring trends over time: (DCI program- nothing specific yet)
[0013] - same
[0014] - using different spatial locations – multipoint concept: (applic complete)
[0017] – monitoring over a period of time: (DCI program- nothing specific yet)
[0033] - nonuniformly mixed sample – multipoint concept: (application complete)
[0067] - time dependent air sampling – dynamic spectral unmixing: (part of BTP1 ?)
----------apparatus likely presented in talks/proposals
[0068] - dynamic unmixing for process control: DCI program,
---------- early ideas and marketing discussions with chemical monitoring discussions
[0070] – to monitor drug dissolution : IP log only

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SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
Shima	:	
Application No. 10/893,340	:	DECISION ON PETITION
Filed: July 19, 2004	:	TO WITHDRAW
Attorney Docket No. 8215.142	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak on behalf of himself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action that was mailed on August 11, 2006 that requires a response by 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

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Willard H. Schmidt
2015 Altez NE
Albuquerque NM 87112

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of Willard H. Schmidt Application No. 10/893,394 Filed: July 19, 2004 For: Neux- A New Composition Of Matter	DECISION DISMISSING PETITION

This is a decision on the petition filed September 27, 2004, which is being treated as a request to withdraw the Notice of Omitted Item(s) in a Nonprovisional Application mailed on September 20, 2004.

On July 19, 2004, the above-identified application was filed. However, on September 20, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of July 19, 2004, and indicating that page 3 of the specification appeared to have been omitted.

In response, on September 27, 2004, applicant filed the present petition, the petition fee and three sheets of drawings. Applicant asserted that all of the pages of the application including page 3 were submitted on filing. Applicant further asserted that the application was carefully checked and perhaps page 3 was misplaced in the USPTO. Applicant explained that page 3 contained the drawings (Figures 1 and 2) for the above-identified application.

A review of the record indicates that the application was not missing any pages of specification on filing. Rather, applicant improperly included one sheet of drawings labeled page 3 as part of the specification.

The Office reminds applicant that pursuant to 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

It is obvious from the petition that page 3 of the specification was not actually missing on July 19, 2004. Rather, applicant improperly included one drawing sheet, labeled page 3, as part of the specification rather than as a separate requirement under 35 U.S.C. 113.

Accordingly, the Notice of Omitted Item(s) mailed on September 20, 2004, was correct in stating that page 3 described in the specification appeared to have been omitted. Therefore, the requirement to submit the omitted page of specification set forth in the Notice of Omitted Item(s) will not be withdrawn.

Accordingly, the petition is dismissed.

The Office will not refund the $130.00 petition fee because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The Office of Initial Patent Examination is directed to process the application with a filing date of July 19, 2004, using the papers submitted on filing.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WATERS INVESTMENTS LIMITED
C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD, MA 01757

In re Application of :
Geramanos, et al. : DECISION ON PETITION
Application No. 10/893,415 :
Filed: July 16, 2004 :
For: AE-MM-15 C4 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned November 30, 2004 for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed September 29, 2004. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 6, 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 Notice is accepted as having been unintentionally delayed.

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 in accepting the statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See, Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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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C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD MA 01757

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JUN 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Scott Geromanos et al.	:	
Application No. 10/893,415	:	DECISION ON PETITION
Filed: July 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AE-MM-15 C4	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed October 4, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by a supplemental Application Data Sheet (ADS). While a complete reference to the prior-filed nonprovisional applications was not included in an ADS or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1410.00 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 Christopher Bottorff at (571) 272-6692. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

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JAN 19 2007

OFFICE OF PETITIONS

ANTHONY J. JANIUK
WATERS CORPORATION
34 MAPLE STREET
MILFORD, MA 01757

In re Application of	:	
Steven Bajic, et al.	:	
Application No. 10/893,427	:	ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. AE-MM-16	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by July 13, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed September 9, 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). A Notice of Abandonment was mailed on July 6, 2005. In response, on July 13, 2006, the present petition was filed, as well as an executed declaration and the requisite surcharge.

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 July 13, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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C/O WATERS CORPORATION
34 MAPLE STREET - LG
MILFORD, MA 01757

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Stevan Bajic, et al.	:	
Application No. 10/893,427	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. AE-MM-16	:	

This is a decision on the petition, filed February 5, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed May 29, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 4, 2008.

Petitioner asserts that the Office action dated May 29, 2007 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of May 29, 2007. In this regard, a proper Revocation and Power of Attorney was filed on July 13, 2006, which is prior to the mailing of the Office action of May 29, 2007. Unfortunately, Office records were not updated to reflect the change of address. As the Office action was mailed to an incorrect address, the Notice of Abandonment mailed January 4, 2008 is hereby vacated and the holding of abandonment withdrawn.

Receipt is acknowledged of the new Power of Attorney and Correspondence Address Indication Form included with the present petition. Office records are being updated accordingly.

This application is being referred to the Technology Center technical support staff of Art Unit 2881 for remailing the Office action of May 29, 2007 and resetting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **July 07, 2008**

TO SPE OF : ART UNIT **2625**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/893432** Patent No.: **7292367 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.

XApproved	**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 for Application no. 10/893,432 has been considered and approved.

Madeleine Nguyen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

AV 2625

SPE Art Unit

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Chan-Byoung Chae	: DECISION ON REQUEST FOR
Patent Number	: 7586981	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
40 North Central Avenue, Suite 2700
Phoenix, AZ 85004-4498

In re Application of:	:	**DECISION ON PETITION**
Milan Cerovic	:	**TO MAKE SPECIAL**
Serial No. 10/893,467	:	**(COUNTER TERRORISM)**
Filed: July 15, 2004	:	
For: ELECTRIC DISCHARGE WEAPON		

This is a decision on the petition filed January 4, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that the invention will contribute to countering terrorism by providing a weapon system that when utilized against a terrorist would render the terrorist immobilized for a given amount of time. This statement is a general conclusion and does not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism. Indeed, from the petition itself it is unclear even what the invention is. Any petition in order to satisfy the above requirement must certainly include a description of what the invention consists of.

Furthermore, petitioner's invention, based on the disclosure, deals more with civil law enforcement and military crowd control rather than counter terrorism. In fact, no mention of counter terrorism is set forth in applicant's disclosure. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

For the above stated reasons, the petition is **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 2/8/05

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Heller Ehrman LLP
4350 La Jolla Village Drive
7th Floor
San Diego, CA 92122

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AUG 13 2008

In re Application of	:	
Roland Buelow, et al.	:	
Application No. 10/893,483	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO WITHDRAW
Attorney Docket No. 39691-0007A	:	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 10, 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 Leslie B. Overman 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
Petitions Examiner
Office of Petitions

cc: **Roland Buelow**
2747 Ross Road
Palo Alto, CA 94303

cc: **Godwin Procter LLP**
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/893,483	07/15/2004	Roland Buelow	39691-0007A

CONFIRMATION NO. 4252

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000031533625

Date Mailed: 08/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/10/2008.

- 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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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Mail Date: 04/20/2010

Applicant	: Roland Buelow	: DECISION ON REQUEST FOR
Patent Number	: 7585668	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,483	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **971** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS, CO 80906

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APR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Ian Robert Davies	:	
Application No. 10/893,486	:	DECISION GRANTING PETITION
Filed: July 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CHAP.0114	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 2, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2114 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/893,489	07/19/2004	Robert Femia	5395-002-27	3849

7590 07/03/2008

DLA PIPER US LLP
ATTN: PATENT GROUP
500 8th Street, NW
WASHINGTON, DC 20004-2131

EXAMINER
FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
07/03/2008	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

Refund Ref:
07/09/2008 0030058134

Credit Card Refund Total: $500.00

VISA....: XXXXXXXXXXXX2693

Adjustment date: 07/09/2008 NFARMER
08/20/2007 SSITHIB1 00000013 11893489
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Doering and Harmon
Application No. 10/893,506
Filed: July 16, 2004
Attorney Docket No. 2698.EPSI.NP
For: Impeller and Cutting Elements for Centrifugal Chopper Pumps

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 18, 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.

Petitioner submitted $130 for the petition fee. However, effective November 1, 2004, the required fee for a petition under 37 CFR 1.47 was increased to $200.[1] 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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Paper No: __

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
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WASHINGTON DC 20044-4300

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In re Application of	:	
Boll	:	
Application No. 10/893,537	:	DECISION ON PETITION
Filed: 19 July, 2004	:	
Attorney Docket No.: 095309.55128US	:	

This is a decision on the petition filed on 18 April, 2005 under 37 C.F.R. §1.47(b) because no inventor has signed the oath/declaration.

The petition is **DISMISSED**.

NOTES:

(1) Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(b)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 19 July, 2004, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts (basic fees, oath/declaration, translation, surcharge) on 17 September, 2004, with reply due absent extension of time on or before 17 November, 2004;

- Petitioner replied on 18 April, 2005, with (*inter alia*) the instant petition, a declaration from employees of the alleged assignee (to wit: George Kolb, Senior Patent Manage, and Arnold Eschbach, Junior Patent Manager (Messrs. Kolb and Eschbach) as to transactions in the matter, and assertion of enclosure of copies of documents, including transmittal and response documents, to/from the non-signing inventor Dr. Wolf Boll (Dr. Boll), however, such documents were not in evidence in the file, and despite the requirement that Petitioner make a showing that the entire application (description, claims, abstract and drawings) was sent to each of the non-signing, Petitioner has failed to make a showing that he has satisfied this requirement of statute and regulation;

- moreover, it appears that the copy of the application filed thus far was signed by Messrs. Kolb and Eschbach, but there is no indication/averment that they are authorized to do so on behalf of the assignee and on behalf of the non-signing inventor as required.

Thus, as of this writing it appears that there is insufficient support of the necessary showings as required.

ANALYSIS

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has failed to satisfy this burden with, for example, a copy of the transmittal letter forwarding to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) at the non-signing inventor's last known address–which address must demonstrate he has made a diligent effort to determine as current.

As of this writing, Petitioner has failed to satisfy the showing requirement of the regulation and the petition hereby is **dismissed**.

The renewed petition, if any, must be accompanied by the corroborating evidence and the oath/declaration signed by the duly authorized officer of the assignee as required by 37 C.F.R. §1.47.

Further correspondence with respect to this matter should be addressed as follows:[1]

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 5-31-06

In re application of	:	
Takashi Fujimoto	:	DECISION ON
Serial No. 10/893,573	:	PETITION
Filed: July 19, 2004	:	
For: Low-Reflective Thin-Film Substrate	:	

This is a decision on the petition filed on April 7, 2006. The petition requests to reset the period of reply of an office action.

Applicants received an Office Action dated March 23, 2006 with an April 5, 2006 mail date on the envelope.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The Office will grant a petition to restart the previously set period for reply to an Office action when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office action was received in the postmarked envelope.

Applicants have provided the necessary evidence.

The petition is **GRANTED.**

The response period for reply will run from April 5, 2006.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kendrew H. Colton
Fitch, Even, Tabin & Flannery
1801 K St. MW – Suite 401L
Washington, DC 20006-1201

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FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

MAILED

FEB 13 2009

OFFICE OF PETITIONS

In re Application of
Takashi **FUJIMOTO**
Application No. 10/893,573
Filed: July 19, 2004
Attorney Docket No. **7372/84085**

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 February 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 January 26, 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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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JAN 19 2005

OFFICE OF PETITIONS

In re Application of
Lauren Nicole Barker, Michelle Lee Bublitz, Staci Lynn Bogue-Buchholz, Dean Michael Frommelt, Steven D. Khuu, Patrick J. Langa, Bruce Allen Logan and Gregory Dale Michael
Application No. 10/893,577
Filed: July 19, 2004
Title: METHOD AND SYSTEM FOR MANAGING REGULATORY INFORMATION

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 3, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 19 2005

OFFICE OF PETITIONS

PATRICK J. LANGA
2101 DISAR DRIVE
SPRINGFIELD, IL 62707

In re Application of
Lauren Nicole Barker, Michelle Lee Bublitz, Staci Lynn Bogue-Buchholz, Dean Michael Frommelt, Steven D. Khuu, Patrick J. Langa, Bruce Allen Logan and Gregory Dale Michael
Application No. 10/893,577
Filed: July 19, 2004
Title: METHOD AND SYSTEM FOR MANAGING REGULATORY INFORMATION

Dear PATRICK J. LANGA:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Johann Christian Lotter	: DECISION ON REQUEST FOR
Patent Number	: 7627851	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,579	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **904** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 - 4 2006

MILLEN WHITE ZELLANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Laval Chan Chung Kong et al	:
Serial No.: 10/893,583	: PETITION DECISION
Filed: July 19, 2004	:
Attorney Docket No.: VIRO-0008	:

This is in response to the petition under 37 CFR 1.144, filed May 4, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 81 claims, as filed. The examiner mailed to applicants on August 23, 2005, a restriction requirement, as follows:

Group I – claims 1-26, 29-33 and 67, drawn to compounds where R^1 is given by (formula) II, III, IV, V or VI, as given in claim 33 (also set forth in claim 1), W is pyridyl, R^2 is phenyl and R^3 is H or alkyl;

Group II – claims 1-25, 29-33 and 67, drawn to compounds where R^1 is given by (formula) II, III, IV, V or VI, as given in claim 33, W is phenyl, R^2 is phenyl and R^3 is H or alkyl;

Group III – claims 1-33, drawn to compounds where R^1 is given by (formula) II, III, IV, V or VI, as given in claim 33, W is phenyl, R^2 is pyridyl or thienyl and R^3 is H or alkyl;

Group IV – claims 1-25, 29-33 and 67, drawn to compounds where R^1 is given by (formula) II, III, IV, V or VI, as given in claim 33, where W and R^2 are other than in Groups I-III and R^3 is H or alkyl;

Group V – claims 1-33 and 67 drawn to compounds not in the above Groups;

Group VI – claims 34-66, drawn to various methods of treating; and

Group VII – claims 68-81, drawn to combinations of compositions.

The examiner set forth reasons for restriction and held specifically that Groups I-V were unrelated because they do not have the same core. Group VI was indicated as related to Groups I-V as a process as opposed to a compound and therefore distinct. Group VII was indicted as a subcombination of Groups I-V, but distinct as they are separately useable. An election of a

single species was also required for whichever Group was elected. The examiner also argued that to search all of the compounds would be an undue burden on the Office.

Applicants replied on September 20, 2005, making minor amendments to the claims and adding claims 82-88 and electing Group I with traverse specifically with respect to Group II-V, arguing that the claim 1 is a proper Markush group claim and cannot be restricted within the claim as all compounds have a common core and a specific defined activity or property dependent on that core.

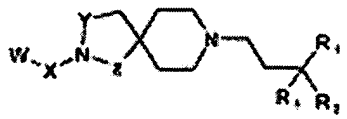
The examiner mailed a new Office action to applicants on January 4, 2006, acknowledging the election of Group I and the traversal. The examiner maintained the requirement on the basis of the reasons set forth in the previous Office action and that a preliminary search of the core applicants define produced many thousands of hits. The requirement was made Final. The examiner rejected claims 34-66 and 68-69 under 35 U.S.C. 112, first paragraph, for lack of written description. Claims 70-81 were rejected under 35 U.S.C. 112, second paragraph, as indefinite

Applicants replied on May 4, 2006, by filing an amendment to claim 1 and adding claims 89-90 and again traversing the restriction requirement and responding to each of the rejections of record. Applicants also filed the instant petition.

DISCUSSION

Applicants' traversal of the restriction requirement is based on whether it is proper to restrict within a claim containing a proper Markush group. Applicants note that in a telephone call prior to the examiner's written restriction requirement applicants urged the examiner to follow M.P.E.P. 809.02(c)(B)(1). Clearly the examiner did not follow applicants' suggestion.

Applicants argue that the Groups I-V are not proper inasmuch as all claims depend from claim 1 or a compound within the scope of claim 1. A review of claim 1 shows that it is directed to a compound of the following structure:



(1)

An analysis of the structure shows that it is a spiro compound having variables Y and Z in the spiro ring. Variables (X), Y and Z are defined as CH_2, C=O or CR_4R_5. Thus, in every instance the spiro ring atom is a carbon, although it may be an oxo substituted carbon as opposed to a hydrogen or alkyl substituted carbon. The compounds are claimed as effective in the treatment of various ailments and diseases. Structures II, III, IV, V and VI noted in the restriction requirement are, *inter alia*, possible structural values for R_1.

As can be seen from the above applicants' contention that the claims are related is fully supported by the fact that all compound claims (claims 1-33 and 67) contain a common core, the spiro ring compound having a trisubstituted (at the terminal carbon) propyl group attached to the

pyridine nitrogen of the spiro structure and an X-W group attached to the nitrogen of other spiro ring. All composition claims depend directly or indirectly from claim 1. The several court cases relied upon by applicants for support, *In re Weber, In re Haas* and *In re Harnnish*, all stand for the proposition that a proper Markush group is one in which there is a significant portion of a structure which is common to all compounds (whether patentable or not is not a requirement) and a function associated with that core. Here there is a common core, the spiro ring (claimed as a 2,8-diazo(spiro)decane) with the propyl substituent attached (all other attachments are variables) and a specific activity/property ascribed to that core.. Restriction within the claim is improper. However, as offered by applicants, an election of species is proper in order to assist the Office/examiner in properly evaluating the claim for patentability. Part of the examiner's restriction requirement involved an election of species from within the elected Group and applicant has made a proper election of species.

Claims 34-66 (Group VI) which are directed to treatment methods for various conditions are properly restricted from the compound claims, and their division/restriction is not argued by applicants. Claims 68-81 are properly classified as subcombination claims with respect to the compound claims. However their patentability is dependent directly on the claimed compositions and they are not patentably distinct therefrom. (It appears, however, that the examiner has considered all of these claims based on potential allowability of the compound claims.)

In view of the above the restriction requirement is modified as follows:

Group I, claims 1-33 and 67-81, directed to compounds and compositions;
Group II, claims 34-66, directed to various treatment methods.

Group I has been elected and a species identified from which examination has begun. Group II should be (and appears to have been) considered for rejoinder with Group I should the claims of Group I be found allowable.

DECISION

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration of applicants' reply filed may 4, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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DENNIS S. MORRIS, ESQ
HAIGHT, BROWN & BONESTEEL, LLP
6080 CENTER DRIVE, SUITE 800
LOS ANGELES, CALIFORNIA 90045

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OFFICE OF PETITIONS

In re Application of MASSEY, JENNIFER Application No. 10/893,587 Filed: July 17, 2004 Attorney Docket No. MJ06-003	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 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Dennis S. Morris #38,975, the sole attorney of record. Dennis S. Morris has been withdrawn as attorney of record.

Applicant is reminded that there is no attorney of record at this time. The Revocation of Power of Attorney with New Power of Attorney filed concurrently on February 16, 2006 has not been accepted. A new Power of Attorney was not found as an attachment as indicated. Applicant should resubmit the new Power of Attorney form.

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 Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LINER YANKELEVITZ SUNSHINE & REGENSTRIEF, LLP
(ATTN: STEFAN J. KIRCHANSKI)
1100 GLENDEN AVENUE, 14TH FLOOR
LOS ANGELES CA 90024-3548

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DREIER, LLP
499 PARK AVE
NEW YORK, NY 10022

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Jennifer Massey	:	
Application No. 10/893,587	:	ON PETITION
Filed: July 17, 2004	:	
Attorney Docket No. 601996-003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed May 3, 2006. A Notice of Abandonment was mailed on February 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3754 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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/893,587	07/17/2004	Jennifer Massey	MJ06-003

CONFIRMATION NO. 8388

POA ACCEPTANCE LETTER

61834
DREIER LLP
499 PARK AVE
NEW YORK, NY 10022

OC000000027961287

Date Mailed: 01/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Paper No.

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DEC 23 2004

OFFICE OF PETITIONS

JONES DAY
221 E. 41ST STREET
NEW YORK, NY 10017-6702

In re Application of:	DECISION GRANTING
Islam et al.	STATUS UNDER
Application No. 10/893,588	37 CFR 1.47(a)
Filed: July 12, 2004	
Title of Invention:	
METHODS AND APPARATUS FOR SPINNING	
SPIDER SILK PROTEIN	

This decision is in response to the Petition Under 37 CFR § 1.47(a), filed November 12, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Shafiul A. Islam, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary. An electronic message is being sent to the appropriate Office indicating the granting of Rule 47 status. Processing of the application will continue in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Shafiul A. Islam, Ph.D.
430 Tupper Street
Hawkesbury, Ontario
CANADA K6A 3M5

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DEC 23 2004
OFFICE OF PETITIONS

In re Application of: :
Islam et al. :
Application No. 10/893,588 : LETTER
Filed: July 12, 2004 :
Title of Invention: :
METHODS AND APPARATUS FOR SPINNING :
SPIDER SILK PROTEIN :

Dear Doctor Islam:

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
Attorney Advisor
Office of Petitions

cc: JONES DAY
221 E. 41ST STREET
NEW YORK, NY 10017-6702

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

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

COPY MAILED

FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
MOSER, Larry E. et al.	:	
Application No. 10/893,606	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. **247-0039US-D**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 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 Sean McDermott 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.

There is an outstanding Office action mailed November 23, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at Tredelle Jackson.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LARRY E. MOSER**
312 GOODWIN ROAD
MARYSVILLE, IN 47141

cc: **JOHN ROSCO**
4457 PARK ROAD
BENICIA, CA 94510

DATE 1/26/08 APPLICATION NUMBER 10/893606

DOC CODE B/B DOC DATE _____

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RAMAN N. DEWAN
BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of :
BRANDT :
Application No. 10/893,620 :
Filed: July 16, 2004 :
Attorney Docket No. 076153.0102 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2005[1], 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 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to Office Action; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed April 26, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on October 27, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3651.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

enc: Track & Confirm Information for Label Number EV629074902US on the USPS website

[1] Office records erroneously reflect the petition and the response to the non-final office action were received on October 26, 2005. As the certificates of mailing for the petition and the response indicate, the communication for Express Mail No. EV629074902US was deposited with the United States Postal Service (USPS) on October 27, 2005. The tracking information for Express Mail No. EV629074902US on the USPS website confirms acceptance on "October 27, 2005, 5:29 pm."

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN M. FARRELL
PIERCE ATWOOD
SUITE 350
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH, NH 03801

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas Veach Long, II	:	
Application No. 10/893,636	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. 0183-2001US02	:	FROM RECORD
	:	

This is a decision on the petition under the provision of 37 CFR 1.182 filed December 11, 2008 to expedite.

The petition is **GRANTED**.

This is also decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because petitioners have not made all the proper certifications. The petitioner has failed to certify that he has delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled. Further the request cannot be granted because the petitioner has altered the form.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS VEACH LONG, II
MARLCULTURA, INC.
PO DRAWER 1490
WRIGHTSVILLE BEACH, NC 28480

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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KEVIN M. FARRELL, PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
SUITE 350
PORTSMOUTH NH 03801

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Veach Long, II	:	
Application No. 10/893,636	:	DECISION ON PETITION
Filed: July 16, 2004	:	TO WITHDRAW
Attorney Docket No. 0183-2001US02	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 2009 and supplemented on February 27, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Kevin M. Farrell 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 correspondence address of record has been changed and the new correspondence address is 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS VEACH LONG, II
MARICULTURA, INC.
PO BOX 1490
WRIGHTSVILLE BEACH, NC 28480

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
10/893,636	07/16/2004	Thomas Veach Long II	0183-2001US02

CONFIRMATION NO. 3396

POWER OF ATTORNEY NOTICE

OC000000034791378

Kevin M. Farrell
Pierce Atwood
Suite 350
One New Hampshire Avenue
Portsmouth, NH 03801

Date Mailed: 03/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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P.O. BOX 607
PLEASANTON CA 94566

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DEC 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Bryan S.M. Chua	:	
Application No. 10/893,651	:	DECISION ON PETITION
Filed: July 16, 2004	:	
Attorney Docket No. CH-003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 24, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2008. A Notice of Abandonment was mailed August 25, 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 response to the Restriction Requirement, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 3696 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
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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Shu Woody Hwang
345 Cloverleaf Drive, # C
Baldwin Park CA 91706

COPY MAILED
AUG 27 2008

In re Application of	:	
Shu Woody Hwang	:	
Application No. 10/893,693	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) action mailed, January 19, 2006, which set a shortened statutory period for reply of one (1) month or (30) days, whichever is greater. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2006. The Notice of Abandonment was mailed August 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The required reply has not been filed with instant petition. There was no response/amendment filed with the requirements that was listed in the notice mailed January 19, 2006. In particular, the required claim amendment has not been received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Shu Woody Hwang
345 Cloverleaf Drive, # C
Baldwin Park CA 91706

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MAR 1 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Shu Woody Hwang	:	
Application No. 10/893,693	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) action mailed, January 19, 2006, which set a shortened statutory period for reply of one (1) month or (30) days, whichever is greater. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2006. The Notice of Abandonment was mailed August 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The required reply has not been filed with instant petition. In particular, the required claim amendment has not been received. The claim still does not have proper status identifier. See Notice that was mailed January 19, 2006.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Shu Woody Hwang
345 Cloverleaf Drive, # C
Baldwin Park CA 91706

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Shu Woody Hwang	:	
Application No. 10/893,693	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the second renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) action mailed, January 19, 2006, which set a shortened statutory period for reply of one (1) month or (30) days, whichever is greater. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2006. The Notice of Abandonment was mailed August 16, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The required reply has not been filed with instant petition. In particular, the required claim amendment has not been received. The alleged mailing of February 2, 2006 is not relevant to revival. The proper claim amendment must now be provided with the petition.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Salvatore R. Uglietto
42 Mayflower Road
Winchester, MA 01890

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of :
Salvatore R. Uglietto :
Application No. 10/893695 :
Filing or 371(c) Date: 03/24/2003 :
Title of Invention: :
TECH EDGE ALERT PREVENTS MOLD : ON PETITION

This is a decision on the correspondence filed September 14, 2005. The correspondence is properly treated as a petititon to withdraw the holding of abandonment under 37 C.F.R. § 1.181. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Incomplete Nonprovisional Application (Notice), mailed August 24, 2005. The Notice set a two (2) month period for reply, and informed Applicant that the specification did not include at least one claim, and that the basic filing fee of $230.00 was required. No response having been received, the application became abandoned on October 25, 2005. A Notice of Abandonment was mailed June 22, 2006.

Applicant's Assertion

Applicant files the instant petition and demonstrates that the application included $165.00 filing fee on March 24, 2003, when application papers were deposited with this Office, and an additional filing fee of $65.00 was filed on December 2, 2004, prior to the mailing of the corrected Notice.

As to the presence or absence of a claim, a review of the application papers deposited on March 24, 2003 reveal that the application included claims, albeit in an incorrect format.

In view of the foregoing, the Notice mailed August 24, 2005 was mailed in error and is hereby vacated, and the holding of abandonment is hereby withdrawn.

Applicant is further advised that there are two Offices here available to provide assistance: the Office of Independent Inventors, at 703-306-5568; and the Patent Assistance Center, at 1-800-

786-9199, for assistance in prosecuting his patent application. Applicant is also strongly encouraged to seek the assistance of a registered practitioner for assistance in prosecuting his application. A list of registered practitioners is available at our website: www.uspto.gov.

This application is being referred to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 24, 2003.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

MAY 29 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#3

JACK T. FISCHBACH
27478 REST CIRCLE
EASTON, MD 21601

In re Application of	:	
Jack T. Fischbach	:	DECISION ON PETITION
Serial No.: 29/173,827	:	
Filed: January 8, 2003	:	
For: Vortex Visualizer	:	

This is in response to applicants' petition filed May 14, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

Copied from 29173827 on 11/05/2004

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

SHU WOODY HWANG
345 CLOVERLEAF DRIVE, #C
BALDWIN PARK CA 91706

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of
Shu Woody Hwang
Application No. 10/893,700
Filed: August 23, 2004
Title of Invention:
EXPLOSION PROOF HARMONIC BALANCER

ON PETITION

This is a decision on the Petition to Revive, filed October 9, 2007 under 37 CFR 1.137(b), to revive the above identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned December 7, 2006 for failure to file a timely response to the Notice of Non-Compliant Amendment mailed November 6, 2006. A response was filed November 29, 2006 but by Notice mailed January 22, 2007, petitioner was advised that the response filed November 6, 2006 failed to provide corrective action as required by the November 6, 2006 Notice. Thus the application became abandoned and accordingly, a Notice of Abandonment was mailed August 21, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for

failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) The petition fee as set forth in § 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. 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 37 C.F.R. § 1.137(c).

The petition lacks compliance with items (1) and (2) above.

Petitioner is advised that the petition fees for revival under 37 CFR 1.137(b) for a small entity are set at $770.00 and $1540.00 for a large entity. The fees due are the fees set at the time the application file is revived, not $110.00 in any case as has been submitted with the instant petition. Furthermore, petitioner has not submitted a proper response to the non-Final Office Action mailed September 29, 2006 nor indicated that they wish that any of the other responses filed subsequent to the Notice of Non-Compliant Amendment be considered the required response under 37 CFR 1.137(b)(1).

The application will therefore remain in an abandoned status until such time as a renewed petition with a proper response and petition fees has been submitted..

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

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

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SHU WOODY HWANG
345 CLOVERLEAF DRIVE, #C
BALDWIN PARK CA 91706

COPY MAILED

JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of
Shu Woody Hwang
Application No. 10/893,700
Filed: August 23, 2004
Title of Invention:
EXPLOSION PROOF HARMONIC BALANCER

ON PETITION

This is a decision on the Renewed Petition to Revive, filed April 21, 2008 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned December 7, 2006 for failure to file a timely response to the Notice of Non-Compliant Amendment mailed November 6, 2006. A response was filed November 29, 2006 but by Notice mailed January 22, 2007, petitioner was advised that the response filed November 29, 2006 failed to provide corrective action as required by the November 6, 2006 Notice. Thus the application became abandoned and accordingly, a Notice of Abandonment was mailed August 21, 2007.

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[1]A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) The petition fee as set forth in § 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. 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 37 C.F.R. § 1.137(c).

Subsequent to mailing of the Notice of Abandonment and prior to the filing of a petition to revive, petitioner filed a Notice of Appeal. At the outset, petitioner is advised that A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claim(s) has/have been finally rejected. Thus, the filing of the Notice of Appeal on August 29, 2007 was not a proper response to the non-Final Office Action mailed September 29, 2006.

The petition to revive filed October 9, 2007 therefore lacked compliance with items (1) and (2) under 37 CFR 1.137(b) because a proper response was not filed and because the appropriate petition fees were not included with the petition.[2]

Comes now petitioner with the instant renewed petition and petition fees in the amount of $770.00.

Petitioner is advised however that the application is still abandoned because petitioner has not filed a compliant amendment or a proper response to the non-Final Office Action mailed September 29, 2006. When composing a reply, please refer to the communication, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121)", mailed January 22, 2007.

The application will therefore remain in an abandoned status until such time as a renewed petition with a proper response has been submitted.

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

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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[2]The petition fees for revival under 37 CFR 1.137(b) for a small entity are set at $770.00 and $1540.00 for a large entity. The fees due are the fees set at the time the application file is revived. The petition filed October 9, 2007 included $110.00 as the petition fee.

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Shu Woody Hwang
345 Cloverleaf Drive, #C
Baldwin Park, CA 91706

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APR 22 2008

OFFICE OF PETITIONS

In re Application of Hwang :
Application No. 10/893,701 :
Filing Date: April 23, 2004 :
For: Fluid Damper & Pulley Kit :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2007, to revive the above-identified application. The petition is also being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **dismissed**.

The petition under 37 CFR 1.137(b) is **dismissed**.

Facts:

Application papers were filed December 15, 2003.

The application papers did not include a claim.

The Office treated the application papers as a design application and the papers were assigned Application No. 29/195,530.

On April 6, 2004, the Office mailed a Notice of Incomplete Application stating the application had not been accorded a filing date and stating an additional $5 was owed for the filing fee.

A reply to the April 6, 2004 Notice was filed on April 23, 2004. The reply included:

(1) A copy of the Notice of Incomplete Application mailed by the Office,
(2) A transmittal sheet indicating the reply papers included a "Response to Missing Parts / Incomplete Application",
(3) A fee transmittal sheet indicating the fee submitted with the reply was the difference between the utility fees required when filing an application and the $165 already paid,
(4) New black and white drawings,
(5) Color drawings or photographs,
(6) A claim,
(7) A declaration referencing the papers filed December 15, 2003, along with the papers filed with the reply,

(8) A Utility Application Transmittal Sheet, and
(9) A Disclosure Document Deposit Request.

The Office properly recognized the original papers filed December 15, 2003, were not intended to be a design application. Therefore, the Office accorded all the papers filed by application an application number of 10/893,701.

The fee check mailed with the reply was returned unpaid by applicant's bank.

On October 8, 2004, the Office mailed a Notice of Incomplete Application for Application No. 10/893,701. The Notice stated the application had not been accorded a filing date because a claim had not been filed. The Notice stated applicant needed to submit $230 for the remainder of the filing fee and $50 for the fee due when a check is returned unpaid. The Notice also required the submission of a substitute specification, new drawings, and abstract.

The October 8, 2004 Notice was incorrect in so far as it should have stated a filing date of April 23, 2004, had been accorded since a claim was filed on April 23, 2004. The October 8, 2004 Notice also should have indicated payment of a $65 surcharge was necessary.

Office records indicate the Office received the $230 remainder for the filing fee, $50 for the returned check fee, and the required $65 surcharge on November 9, 2004. Office records fail to indicate petitioner filed a substitute specification, new drawings, or abstract on November 9, 2004.

On August 24, 2005, the Office mailed a new Notice of Incomplete Application. The Notice stated the application had not been accorded a filing date because a claim had not been filed. The Notice also required the submission of a substitute specification, new drawings, and abstract.

On September 9, 2005, petitioner filed a new specification, drawings, and abstract.

On September 20, 2005, the Office mailed a Notice of Incomplete Application stating the application had not been accorded a filing date because a claim had not yet been filed.

On September 26, 2005, petitioner filed a paper including a claim.

On a date after September 20, 2005, but before February 13, 2006, the Office accorded the application a filing date of "09/23/04" even though the application should have been accorded a filing date of "04/23/04."

The Office mailed a non-final Office action including a requirement for restriction/election on February 13, 2006.

Petitioner filed a reply to the restriction requirement on March 6, 2006.

The Office mailed a non-final Office action on November 21, 2006. The Office action set a shortened statutory period for reply of three (3) months.

The only "reply" to the November 21, 2006 non-final Office action was filed December 5, 2006. The reply simply asked the examiner for the meaning of the Notice of Publication of Application mailed by the Office and provided the examiner with a copy of an abstract filed in Application No. 10/893,700. The reply stated, "Upon obtaining your answer and guidance ..., I will resume amendment of my application per your request."

Since neither a proper reply nor a request for an extension of time were not filed in response to the November 21, 2006 Office action, the application became abandoned as of midnight on February 21, 2007.

The Office mailed a Notice of Abandonment on June 25, 2007.

The petition under 37 CFR 1.181:

The petition under 37 CFR 1.137(b) is accompanied by a paper titled, "Reasons For Appeal of Unintentionally Abandoned [Application]". The paper appears to contend the application is not actually abandoned. Therefore, the paper has been treated as a petition under 37 CFR 1.181.

The application is abandoned unless a *proper* reply was timely filed in response to the non-final Office action.

The Notice of Abandonment correctly stated,

> A proper reply constitutes a response to each of the examiner's objections and rejections and an attempt to correct any and all of these issues. Applicant's response dated December 5, 2006 merely asked the examiner questions regarding formal matters of the application and nothing regarding the non-final Office action.

Since a properly reply was not filed in response to the non-final Office action, the application was correctly held to be abandoned.

Petitioner may wish to note publication of an application is not the equivalent of issuance of a patent. Therefore, the Notice of Publication did not stop the time period to reply to the non-final Office action. Petitioner may wish to note, if an incorrect abstract was filed on September 9, 2005, then petitioner should file a new, substitute abstract.

The petition under 37 CFR 1.137(b):

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition is not accompanied by a copy of a reply to the outstanding non-final Office action. Therefore, the petition cannot be granted.

The filing date accorded to the instant application:

The Office will change the application's filing date from September 23, 2004, to April 23, 2004.

Requesting reconsideration of the instant decision:

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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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HERMAN LEE COX
6108 SAGE ST. EAST
INVERNESS, FL 34452

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of Cox :
Application No. 10/893,706 :
Filing Date: July 16, 2004 :
For: Marine Engine Skeg-Boot, Protection, :
Absorption, Permanent Conversion and :
Horizontal Lift Wing Component :

Decision on Petition

This is a decision in response to the paper filed June 7, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A final Office action was mailed October 13, 2005.

A reply was filed January 18, 2006. Although the reply was filed after the three-month period to reply had passed, the claim was not accompanied by payment for a one-month extension of time.

An advisory action mailed March 3, 2006, states the amendment filed January 18, 2006, raises new issues.

Since a proper reply was not filed, and an extension of time was not obtained, the application became abandoned on January 14, 2006.

The instant petition seeks revival of the application and is not accompanied by a fee. Therefore, the petition will be treated under 37 CFR 1.181.

Discussion:

Petitioner does not contend a proper reply was timely filed in response to the final Office action. Therefore, the application is properly held abandoned.

Two methods exist to revive an application:
(1) Petition under 37 CFR 1.137(b), and
(2) Petition under 37 CFR 1.137(a).

Requirement 1 for a petition to revive:

Both types of petitions require a petition fee. The fee for a petition under 37 CFR 1.137(b) is $750. The fee for a petition under 37 CFR 1.137(a) is $250.

Requirement 2 for a petition to revive:

A petition under 37 CFR 1.137(a) must include proof the *entire* delay in the submission of a proper reply was unavoidable. Delay resulting from a failure to know or understand the law is not considered "unavoidable" delay within the meaning of the term in 37 CFR 1.137(a).

A petition under 37 CFR 1.137(b) must include a statement, but not proof, the *entire* delay in the submission of a proper reply was unintentional.

Requirement 3 for a petition to revive:

Both types of petitions require the submission of a proper reply.

Petitioner has not submitted a proper reply to the final Office action mailed October 13, 2005. A proper reply to a final rejection consists only of:

(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

As to (1), applicant does not have a "right" to amend any finally rejected claims, add new claims after a final rejection, or reinstate previously canceled claims. However, the Office will normally consider an amendment a proper reply to an Office action if it *prima facie* ("on its face") places the application in condition for allowance. In other words, the amendment must merely cancel claims which have been rejected, adopt examiner suggestions, or in some other way <u>require only a cursory/brief review by the examiner</u>. If an amendment requires further searching by an examiner, it will generally not be accepted. An example of an acceptable amendment:

a. Examiner files final rejection which states, "Claim #2 is rejected, however if the word 'plural' were deleted then the claim would be acceptable."
b. An amendment is filed which deletes the word "plural"
c. The amendment on its face is allowable, no further work by the examiner is required. ,

The above is only an example.

As to (2), petitioner may file a Notice of Appeal (and fee) and two months later file an appeal brief (and fee). This practice can be extremely complex. Petitioner may wish to study a Manual of Patent Examining Procedure extensively before filing a Notice of Appeal.

As to (3), a RCE can be filed. A RCE is basically a request to continue prosecution of the application. A "submission" (usually in the form of an amendment) and a new filing fee must be submitted with the RCE. Petitioner may wish to submit a new amendment as the submission for

a RCE. When a RCE is filed, the amendment, on its face, does NOT have to place the application in condition for allowance in order for the amendment to be considered on the merits. If the amendment requires additional work or research by the examiner, then the work and research will be done. Unlike "an amendment after final" where the applicant does not have the "right" to file an amendment, an applicant does have such a right when the amendment is filed with a RCE. To file a RCE requires an additional fee of $-395 (for a small entity) plus any applicable additional claim fees. A copy of a form that can be used is included for petitioner's convenience.

As to (4), a continuation application under 37 CFR 1.53(b) may be filed.

Any request for reconsideration under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Discussion of Amendment Practice under 37 CFR 1.121
RCE form
37 CFR 1.137(b) form
37 CFR 1.137(a) form

REVISED AMENDMENT PRACTICE: 37 CFR 1.121 CHANGED COMPLIANCE IS MANDATORY - Effective Date: July 30, 2003

All amendments filed on or after the effective date noted above must comply with revised 37 CFR 1.121. See Final Rule: **Changes To Implement Electronic Maintenance of Official Patent Application Records** (68 *Fed. Reg.* 38611 (June 30, 2003), posted on the Office's website at: http://www.uspto.gov/web/patents/ifw/ with related information. The amendment practice set forth in revised 37 CFR 1.121, and described below, replaces the voluntary revised amendment format available to applicants since February 2003. **NOTE: STRICT COMPLIANCE WITH THE REVISED 37 CFR 1.121 IS REQUIRED AS OF THE EFFECTIVE DATE (July 30, 2003).** The Office will notify applicants of amendments that are not accepted because they do not comply with revised 37 CFR 1.121 via a Notice of Non-Compliant Amendment. See MPEP 714.03 (Rev. 1, Feb. 2003). The non-compliant section(s) will have to be corrected and the entire corrected section(s) resubmitted within a set period.

Bold underlined italic font has been used below to highlight the major differences between the revised 37 CFR 1.121 and the voluntary revised amendment format that applicants could use since February, 2003.
Note: The amendment practice for **reissues** and **reexamination proceedings**, except for drawings, has not changed.

REVISED AMENDMENT PRACTICE

I. Begin each section of an amendment document on a separate sheet:
Each section of an amendment document (*e.g.*, Specification Amendments, Claim Amendments, Drawing Amendments, and Remarks) must begin on a separate sheet. Starting each separate section on a new page will facilitate the process of separately indexing and scanning each section of an amendment document for placement in an image file wrapper.

II. Two versions of amended part(s) no longer required:
37 CFR 1.121 has been revised to no longer require two versions (a clean version and a marked up version) of each replacement paragraph or section, or amended claim. Note, however, the requirements for a clean version and a marked up version for substitute specifications under 37 CFR 1.125 have been retained.

A) Amendments to the claims:
Each amendment document that includes a change to an existing claim, cancellation of a claim or submission of a new claim, **must include a complete listing** of all claims in the application. After each claim number in the listing, the status must be indicated in a parenthetical expression, and **the text of each pending claim** (with markings to show current changes) must be presented. The claims in the listing will replace all prior claims in the application.

(1) The current status of all of the claims in the application, including any previously canceled, not entered or withdrawn claims, must be given in a parenthetical expression following the claim number using only one of the following seven status identifiers: (original), (currently amended), (canceled), (withdrawn), (new), ***(previously presented) and (not entered).*** The text of all pending claims, ***including withdrawn claims,*** must be submitted each time any claim is amended. Canceled ***and not entered*** claims must be indicated by only the claim number and status, without presenting the text of the claims.
(2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for ***deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change*** *(e.g., ~~number 4 as~~ number 14 as).* An accompanying clean version is not required and should not be presented. Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings.
(3) The text of pending claims not being currently amended, ***including withdrawn claims,*** must be presented in the claim listing in clean version, *i.e.*, without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims.

(4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional.
(5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined.
(6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (*e.g.*, Claims 1 – 5 (canceled)).

Example of listing of claims (use of the word "claim" before the claim number is optional):

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

B) Amendments to the specification:
Amendments to the specification, including the abstract, must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or sections, including a new abstract (instead of a replacement abstract), must not be underlined. A replacement or new abstract must be submitted on a separate sheet, 37 CFR 1.72. If a substitute specification is being submitted to incorporate extensive amendments, both a clean version (which will be entered) and a marked up version must be submitted as per 37 CFR 1.125.

The changes in any replacement paragraph or section, or substitute specification must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for ***deletion of five characters or fewer, double brackets may be used (e.g., [[eroor]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of the number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). As an alternative to using double brackets, however, extra portions of text may be included before and after text being deleted, all in strikethrough, followed by including and underlining the extra text with the desired change*** *(e.g., ~~number 4 as~~ number 14 as)*

C) Amendments to drawing figures:
Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment, ***and may be accompanied by a marked-up copy of one or more of the figures being amended, with annotations.*** Any replacement drawing sheet must ***be identified in the top margin as "Replacement Sheet"*** and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. ***Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment (e.g., as an appendix)***. The figure or figure number of the amended drawing(s) must **not** be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Questions regarding the submission of amendments pursuant to the revised practice set forth in this flyer should be directed to: Elizabeth Dougherty or Gena Jones, Legal Advisors, or Joe Narcavage, Senior Special Projects Examiner, Office of Patent Legal Administration, by e-mail to patentpractice@uspto.gov or by phone at (703) 305-1616.

PTO/SB/30 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
   - a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
     - i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
     - ii. ☐ Other _____
   - b. ☐ Enclosed
     - i. ☐ Amendment/Reply
     - ii. ☐ Affidavit(s)/ Declaration(s)
     - iii. ☐ Information Disclosure Statement (IDS)
     - iv. ☐ Other _____
2. Miscellaneous
   - a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
   - b. ☐ Other _____
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
   - a. ☐ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____. I have enclosed a duplicate copy of this sheet.
     - i. ☐ RCE fee required under 37 CFR 1.17(e)
     - ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
     - iii. ☐ Other _____
   - b. ☐ Check in the amount of $ _____ enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	
Name (Print/Type)		Registration No.	

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)		Date	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Instruction Sheet for RCEs

(not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:
The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:
Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

Request for Suspension of Action:
All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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 as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

PTO/SB/61 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 Sates Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.
NOTE: A grantable petition requires the following items:
(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 hours 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

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	

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

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

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 UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

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

John S. Egbert
Harrison & Egbert
7th Floor
412 Main Street
Houston TX 77002

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Robert Hanks :
Application No. 10/893,707 : ON PETITION
Filed: July 19, 2004 :
Attorney Docket Number: 733,006

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of July 25, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 25, 2005. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 27 2010

OFFICE OF PETITIONS

LEVINE BAGADE HAN LLP
2400 GENG ROAD SUITE 120
PALO ALTO CA 94303

In re
Pei, et al.
Application No. 10/893,730
Filed: July 16, 2004
Patent No. 7,049,732
Issued: May 23, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 19, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490 is hereby **accepted.**

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew J. Layman, et al.	:	
Application No. 10/893,731	:	DECISION ON PETITION
Filed: July 16, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MS1-521USC2	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

§119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2176 to await a reply to the final Office action of July 3, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. 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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/893,731	07/16/2004	2176	942	MS1-521USC2	4	16	5

CONFIRMATION NO. 3528
CORRECTED FILING RECEIPT
OC000000020159883
OC000000020159883

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 08/23/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Andrew J. Layman, Bellevue, WA;
Gopal Krishna R. Kakivaya, Sammamish, WA;
Satish R. Thatte, Redmond, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/635,830 08/09/2000
which claims benefit of 60/148,172 08/10/1999

Foreign Applications

If Required, Foreign Filing License Granted: 09/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/893,731

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Object persister

Preliminary Class

715

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

6-29-09

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,516,164
Ser. No. : 10/893,736
Inventor(s) : Wakabayashi
Issued : April 7, 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
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

George B. F. Yee
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th 'Floor
San Francisco, CA 94111-3834

ej

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 7,516,164	:	
Issue Date: April 7, 2009	:	
Application No. 10/893,736	:	DECISION ON PETITION
Filed: July 15, 2004	:	
Attorney Docket No. 16869S-123900US	:	

This is a decision on the "REQUEST TO CORRECT THE ASSIGNEE UNDER 37 CFR 3.81(b) with REQUEST FOR CERTIFICATE OF CORRECTION", filed July 20, 2009.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a) is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Aljosa Vrancic	: DECISION ON REQUEST FOR
Patent Number	: 7669185	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1598** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND, OR 97701

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Danks, et al. :
Application No. 10/893,756 :
Filed: July 16, 2004 :
Attorney Docket No. 3605-3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 6, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed September 24, 2004, which set a period for reply of two (2) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on November 25, 2004. A Notice of Abandonment was mailed on June 13, 2004.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

[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.

The instant petition lacks items (1) and (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). Petitioner provided no explanation of the circumstances that resulted in the alleged unavoidable delay in responding to the Notice to File Missing Parts of Nonprovisional Application.

As to item (1), the Notice to File Missing Parts of Nonprovisional Application required payment of the filing fee, in addition to the other requirements. Any renewed petition filed, or a petition under 37 CFR 1.137(b), must include the filing fee in order to be considered grantable.

With regard to item (3) above, petitioner has failed to satisfy the requirements of item (3) above because a successful petition under 37 CFR 1.137(a) requires that petitioner establish 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 1.17(a)--was unavoidable. Petitioner did not provide an explanation for the delay from which the undersigned could determine whether the delay was unavoidable within the meaning of 37 CFR 1.137(a). Any renewed petition must accompanied by such an explanation. Further guidance on the requirements for a successful petition under 37 CFR 1.137(a) can be found in Section 711.03(c) of the *Manual of Patent Examining Procedure*.

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 ($1,500.00 for a large entity and $750.00 for a verified small 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

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[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

DATE: 8/28/07 APPLICATION NUMBER: 10/893,756

DOC CODE: PET.DEC. DOC DATE: 8/31/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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OMIKRON IP LAW GROUP
16325 BOONES FERRY ROAD , SUITE 105
LAKE OSWEGO, OR 97035

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of

Danks, et al.

Application No. 10/893,756

Filed: July 16, 2004

Attorney Docket No. 3605-3

: DECISION ON

: PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 2, 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)."

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application mailed September 24, 2004, which set a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period and the application became abandoned on November 25, 2004. A Notice of Abandonment was mailed June 13, 2005. A petition under 37 CFR 1.137(a) was filed on October 6, 2005, and dismissed by a decision mailed October 21, 2005. The decision allowed an extendable period for reply of two-months from its mailing date to file either a renewed petition under 37 CFR 1.137(a) or a petition under 37 CFR 1.137(b).

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above. The undersigned is not persuaded that the entire delay in responding to the Notice to File Missing Parts was unintentional from the due date for a reply until the filing of a grantable petition. Further to this point, Section 711.03(c) of the *Manual of Patent Examining Procedure* provides in pertinent part that:

> There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:
>
> (A) the delay in reply that originally resulted in the abandonment;
>
> (B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and
>
> (C) the delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

It is noted that there has been a significant delay in filing the petition under 37 CFR 1.137(b) after the petition under 37 CFR 1.137(a) was dismissed on October 21, 2005. The instant petition does not establish that the nearly two-year delay in filing the petition under 37 CFR 1.137(b) was unintentional. To be considered grantable, the renewed petition must establish that the entire delay—from the due date for the reply to the Notice of File Missing Parts until filing of a grantable petition under 37 CFR 1.137(b)--was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

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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OMIKRON IP LAW GROUP
16325 BOONES FERRY ROAD , SUITE 105
LAKE OSWEGO OR 97035

In re Application of
Danks, et al.
Application No.: 10/893,756
Filed: July 16, 2004
Attorney Docket No:3605-3

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed October 2, 2007.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application mailed September 24, 2004, which set a shortened period for reply of two months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period and the application became abandoned on November 25, 2004. A Notice of Abandonment was mailed June 13, 2005. A petition under 37 CFR 1.137(a) was filed on October 6, 2005, and dismissed by a decision mailed October 21, 2005. The decision allowed an extendable period for reply of two-months from its mailing date to file either a renewed petition under 37 CFR 1.137(a) or a petition under 37 CFR 1.137(b). A petition under 37 CFR 1.137(b) was filed on August 2, 2007, and dismissed by a decision mailed August 31, 2007.

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 form 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.

The replacement drawings and declaration filed October 2, 2007, are noted.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/04/2010

Applicant	: Zhengrong Liu	: DECISION ON REQUEST FOR
Patent Number	: 7552326	: RECALCULATION of PATENT
Issue Date	: 06/23/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/893,763	: OF WYETH
Filed	: 07/15/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR - 2 2007

HISCOCK & BARCLAY, LLP
2000 HSBC Plaza
Rochester, New York 14604-2404

In re Application of:
Praveen SHENOY
Application No. 10/893,764
Filed: July 15, 2004
For: SCHOTTKY DIODE STRUCTURE TO REDUCE CAPACITANCE AND SWITCHING LOSSES AND METHOD OF MAKING SAME

DECISION ON PETITION
UNDER 37 CFR § 1.48(a)

This is a decision on the petition, filed on 10 July 2006, under 37 C.F.R. § 1.48(a).

The petition is **DENIED**.

The provisions of 37 C.F.R. § 1.48(a) have not been fulfilled. Applicant made the request under 1.48(a)(1) and the proper statement under 1.48(a)(2), however, the applicant failed to include the new oath as required by 1.48(a)(3) and the written consent of the assignee as required by 1.48(a)(5).

Any question regarding this communication should be directed to Sue Purvis, Supervisory Patent Examiner, at (571) 272-1236.

Sue A. Purvis
Supervisory Patent Examiner
Technology Center 2800 - Art Unit 2826

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/04/2010

Applicant	: Zhengrong Liu	: DECISION ON REQUEST FOR
Patent Number	: 7568102	: RECALCULATION of PATENT
Issue Date	: 07/28/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/893,765	: OF WYETH
Filed	: 07/15/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN M MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Thomas F. Strange	: DECISION ON REQUEST FOR
Patent Number	: 7651647	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

MOTI SHAI
3528 VIADEL PRADO
CALABASAS, CA 91302

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Moti Shai :
Application No. 10/893,784 : ON PETITION
Deposited: July 19, 2004 :
Title of Invention: :
MULTI PURPOSE PORTABLE LOCKER :
AND LOCK SYSTEM :

This is in response to the correspondence filed September 27, 2004. The correspondence is properly treated as a petition under 37 CFR 1.53.

Application papers in the above-identified application were filed on July 19, 2004. On September 19, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), indicating, *inter alia*, that Figure 10 described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR § 1.136(a).

In response, Applicant files the instant correspondence wherein Applicant avers that Figure 10 was not omitted from the application, but probably got stuck in the envelop. Applicant requests a refund of the petition fee.

Applicant is advised that there are two methods wherein correspondence will be considered filed on the date of deposit. The first method, under 37 CFR 1.10, provides for the filing of papers and fees by "Express Mail." The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* Manual of Patent Examining Procedure ("MPEP")§513. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed.

The second method, under section 503 of the MPEP, provides that

> [i]f a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

Applicant has not provided any evidence that would demonstrate that drawing Figure 10 was filed with this Office on July 19, 2004. A review of the application file reveals that no return-receipt postcard has been filed with this correspondence. The best evidence of what was filed on July 19, 2004, is Applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.." MPEP § 503.

Applicant's assertion, that he personally verified that all the pages were in the envelop, has been considered, but is not found persuasive that Figure 10 was filed on July 19, 2004. The USPTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawing Figure 10 was filed on July 19, 2004, since no such drawing is present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The statement made by Applicant, and relied upon contain the Applicant's recall of routine events which occurred 2 months earlier and are not more persuasive than the record of what was filed as shown by the official file.

The petition is <u>dismissed without prejudice</u>. If Applicant has documentary evidence, e.g. a copy of an Express Mail label, or a return receipt postcard, to support his assertion that drawing

Figure 10 was deposited on July 19, 2004, Applicant should submit such evidence in any renewed petition.

The application is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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OFFICE OF PETITIONS

DREIER LLP
499 PARK AVE
NEW YORK, NY 10022

In re Application of
Jennifer Massey
Application No. 10/893,796
Filed: July 17, 2004
Attorney Docket No. 601966-002

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 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, September 19, 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 December 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and drawings, (2) the petition fee of $1500; 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 undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business on the reply received May 4, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/893,796	07/17/2004	Jennifer Massey	MJ06-002

CONFIRMATION NO. 1844

OC000000025710449

LINER YANKELEVITZ SUNSHINE & REGENSTRIEF, LLP
(ATTN: STEFAN J. KIRCHANSKI)
1100 GLENDEN AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024-3548

Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent of Bakthavatchalam et al.	:	DECISION ON REQUEST
Patent No. 7,566,712	:	FOR RECONSIDERATION OF
Issue Date: July 28, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/893,799	:	AND NOTICE OF INTENT TO
Filing Date: July 16, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 60172 (72021)	:	CORRECTION

This is a decision on the petition filed on September 25, 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 the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty (1,230) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty (1,230) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred thirty (1,230)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,566,712 B2
ISSUE DATE	:	July 28, 2009
INVENTOR(S)	:	Bakthavatchalam 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 743 days.

Delete the phrase "by 743 days" and insert - by 1,230 days--

OIPE JC185
JAN 0 4 2005
PATENT & TRADEMARK OFFICE

0IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: To be Assigned
Avi J. ASHKENAZI, et al..	)	Art Unit: 1653
Application Serial No. 10/893,802	)	Confirmation No. 4293
Filed: July 16, 2004	)	Attorney's Docket No. 39780-2630 P1C14C1
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	)	**Customer No. 35489**

EXPRESS MAIL LABEL NO. EL 977 673 555 US
Date Mailed: January 4, 2005

PETITION FOR CORRECTED FILING DATE

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully petition to correct the filing date to July 16, 2004.

Petition to Correct Filing Date

On July 16, 2004, Applicants filed the above-referenced application with the United States Patent and Trademark Office by Express Mail. This application is a continuation application of U.S. Serial No. 09/978,824, the entire disclosure of which was incorporated by reference by a preliminary amendment filed with the application on July 16, 2004. A copy of the Preliminary Amendment is enclosed herewith.

Applicants received an Official Filing Receipt which indicated July 16, 2004 as the filing date (a copy of which is enclosed).

Applicants received a Notice to File Corrected Application Papers, Filing Date Granted dated October 6, 2004. (copy enclosed). The Notice indicated that figures 133-236 were missing from the application filed on July 16, 2004. The Notice also requested the filing of a substitute specification.

Applicants responded to the Notice to File Corrected Application Papers on November 19, 2004. A copy of Applicant's Preliminary Amendment and Response filed November 19, 2004 is enclosed. In the Response, Applicants enclosed a copy of Figures 133-236 and indicated that the application was being amended to include these figures because such figures were incorporated by reference from the parent application.

Applicants have now received an Updated Filing Receipt (a copy of which is enclosed) which incorrectly indicates the filing date as November 18, 2004.

Applicants respectfully petition to be entitled to the July 16, 2004 filing date under 37 C.F.R. 1.53. Applicants maintain that the application as filed on July 16, 2004 was complete. Applicants simply inserted Figures 133-236 by amendment on November 19, 2004 through incorporation by reference to the parent application, U.S. Serial No. 09/978,824. Applicants should be entitled to the filing date of July 16, 2004.

Applicants enclose a copy of the Updated Filing Receipt dated December 6, 2004 with the filing date corrected. A corrected Filing Receipt is respectfully requested.

The Commissioner is hereby authorized to charge the petition fee as required under 37 CFR §1.17(i) and any additional fees, or credit any overpayment of fees, which may be required under 37 CFR §1.16 and §1.17, to Deposit Account No. **08-1641**, referencing attorney's docket no. **39780-2630P1C14C1** Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: January 4, 2005

By: Leslie Mooi
Leslie A. Mooi (Reg. No. 37,047)

HELLER EHRMAN WHITE & McAULIFFE LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

SV 2090444 v2
1/4/05 9:47 AM (39780.2630)

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JAN 0 4 2005
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: To be Assigned
Avi J. ASHKENAZI, et al..	Art Unit: To be Assigned
Application Serial No. To be Assigned	Parent Serial No. 09/978,824
Filed: Herewith	Parent Filed: October 16, 2001
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	Attorney's Docket No. 39780-2630 P1C14C1 **Customer No. 35489**

EXPRESS MAIL LABEL NO. EL 977 678 566 US
Date Mailed: JULY 16, 2004

PRELIMINARY AMENDMENT

MAIL STOP NEW PATENT APPLICATION
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Prior to substantive examination of the above-identified patent application (which is filed concurrently herewith), and prior to calculation of the filing fee, Applicants respectfully request the entry of the following amendments. Attached herewith is a copy of the Fee Transmittal filed in the parent Application.

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks begin on page 6 of this paper.

Amendments to the Specification

Please insert the following paragraph at page 1, immediately following the title:

--RELATED APPLICATIONS

--This application is a continuation application claiming priority under 35 USC §120 of copending US Application number 09/978,824 filed 10/16/2001, which is a continuation of, and claims priority under 35 USC §120 to, US Application 09/918,585 filed 7/30/2001, which is a continuation of, and claims priority under 35 USC §120 to, PCT Application PCT/US00/04341 filed 2/18/2000, which is a continuation-in-part of, and claims priority under 35 USC §120 to, PCT Application PCT/US99/28313 filed 11/30/1999, which is a continuation-in-part of, and claims priority under 35 USC §120 to, US Application 09/380,138 filed 8/25/1999, now abandoned, which claims priority under 35 USC §119 to US Provisional Application 60/134,287 filed 5/14/1999, where US Application 09/380,138 is the National Phase filed under 35 USC §371 of PCT Application PCT/US99/05028 filed 3/8/1999, which claims priority under 35 USC §119 to US Provisional Application 60/079,728 filed 3/27/1998, the entire disclosures of which are hereby incorporated by reference.--

Amendments to the Claims:

The listing of claims will replace all prior versions, and listings of claims in the application:

1-57. (cancelled)

Claim A (new): An isolated polypeptide having at least about 80% sequence identity to the amino acid sequence shown in Figure 161 (SEQ ID NO:400).

Claim A1 (new): The isolated polypeptide of claim A, wherein said polypeptide has at least about 85% sequence identity to the amino acid sequence shown in Figure 161 (SEQ ID NO:400).

Claim A1a (new): The isolated polypeptide of claim A, wherein said polypeptide has at least about 90% sequence identity to the amino acid sequence shown in Figure 161 (SEQ ID NO:400).

Claim A2 (new): The isolated polypeptide of claim A, wherein said polypeptide comprises a heterologous polypeptide sequence.

Claim A2a (new): The polypeptide of claim A2, wherein said heterologous polypeptide is the Fc region of an IgG molecule.

Claim A3 (new): The polypeptide of claim A, wherein said isolated polypeptide is linked to polyethylene glycol.

Claim B (new): An isolated polypeptide produced by the method comprising:

(a) expressing a DNA encoding the polypeptide of claim A in a host cell; and

(b) recovering said isolated polypeptide produced by step (a).

Claim C (new): An isolated polypeptide having at least about 80% sequence identity to amino acids 27 through 473 of Figure 161 (SEQ ID NO:400).

Claim C1 (new): The isolated polypeptide of claim C, wherein said polypeptide has at least about 85% sequence identity to amino acids 27 through 473 of Figure 161 (SEQ ID NO:400).

Claim C1a (new): The isolated polypeptide of claim C1, wherein said polypeptide has at least about 90% sequence identity to amino acids 27 through 473 of Figure 161 (SEQ ID NO:400).

Claim C2 (new): The isolated polypeptide of claim C, wherein said polypeptide comprises a heterologous polypeptide sequence.

Claim C2a (new): The polypeptide of claim C2, wherein the heterologous polypeptide is the Fc region of an IgG molecule.

Claim C3 (new): The polypeptide of claim C, wherein said isolated polypeptide is linked to polyethylene glycol.

Claim D (new): An isolated polypeptide produced by the method comprising:

(a) expressing a DNA encoding the polypeptide of claim C in a host cell; and

(b) recovering said isolated polypeptide produced by step (a).

Claim E (new): An isolated polypeptide comprising at least about 30 contiguous amino acids of amino acids 27-473 of the amino acid sequence shown in Figure 161 (SEQ ID NO:400).

Claim E1 (new): The polypeptide of claim E which comprises at least 50 contiguous amino acids of amino acids 27-473 of Figure 161 (SEQ ID NO:400).

Claim E2 (new): The isolated polypeptide of claim E, wherein said polypeptide comprises a heterologous polypeptide sequence.

Claim E2a (new): The polypeptide of claim E2, wherein the heterologous polypeptide is the Fc region of an IgG molecule.

Claim E3 (new): The polypeptide of claim E, wherein said isolated polypeptide is linked to polyethylene glycol.

Claim F (new): An isolated polypeptide produced by the method comprising:

(a) expressing a DNA encoding the polypeptide of Claim E in a host cell; and

(b) recovering said isolated polypeptide produced by step (a).

Claim G (new): An isolated polypeptide comprising at least about 30 contiguous amino acids of the amino acid sequence shown in Figure 161 (SEQ ID NO:400).

Claim G1 (new): The polypeptide of claim G which comprises at least 50 contiguous amino acids of amino acid shown in Figure 161 (SEQ ID NO:400).

Claim G2 (new): The isolated polypeptide of claim G, wherein said polypeptide comprises a heterologous polypeptide sequence.

Claim G2a (new): The polypeptide of claim G2, wherein the heterologous polypeptide is the Fc region of an IgG molecule.

Claim G3 (new): The polypeptide of claim G, wherein said isolated polypeptide is linked to polyethylene glycol.

Claim H (new): An isolated polypeptide produced by the method comprising:

(a) expressing a DNA encoding the polypeptide of Claim G in a host cell; and

(b) recovering said isolated polypeptide produced by step (a).

REMARKS

This application is a continuation claiming priority under 35 USC §120 of copending U.S. Application number 09/978,824 filed October 16, 2001. Applicants received an Office Action dated January 21, 2004 in parent Application No. 09/978,824. Extension fees for 3 months have been paid in parent Application No. 09/918,585 so as to maintain co-pendency. Attached is a copy of the Fee Transmittal filed in the parent Application.

A new paragraph beginning at page 1, has been added in the specification. The new paragraph lists the documents to which priority is claimed for the instant application. Claims 1-57 have been canceled without prejudice. Claims A-H are newly presented. No new matter has been added. Applicants expressly reserve the right to pursue any canceled matter in subsequent continuation, divisional or continuation-in-part applications.

Support for new claims A-A1a,B, C-C1a, D and F may be found in the specification and claims as originally filed. Support for new claims E, E1, G-G1, may be found, for example, at page 123, line 17-19. Support for new claims A2-A2a, A3, C2-C2a, C3, E2-E2a, E3, G2-G2a and G3, may be found, for example, at page 184, lines 9-135 in the section entitled "C. Modifications of PRO".

The current amendments and submissions do not constitute new matter, because they are fully supported by the specification.

Applicants respectfully request entry of these amendments for prosecution in this application.

U.S. Patent No. 6,475,753

Applicants bring to the Office's attention U.S. Patent No. 6,475,753, a copy of which is enclosed herein.

Also enclosed for the Examiner's reference is a comparison of the sequence of the polypeptide claimed in U.S. Patent No. 6,475,753 (and disclosed in SEQ ID NO:161 of that patent), the polypeptide disclosed in Figure 161 (SEQ ID NO:400) of the instant application, and the polypeptide sequence of the Nogo receptor (Genbank Accession No. AAG53612).

Variations from the sequence disclosed in Figure 161 (SEQ ID NO:400) of the instant application are underscored.

NOTE: Cites to the specification for support are based on PCT publication WO 00/53756 (PCT/US2000/04341)

NOTE: Draft claims are modeled on HGS claims 10-15, 17, 19, 20.

NOTE: Genbank Accession No. AAG53612 was submitted by S.M. Strittmatter of Yale University.

Please charge any fees, including fees for extension of time, or credit overpayment to Deposit Account No. **08-1641**, referencing Attorney's Docket No. **39780-2630 P1C14C1**.

Respectfully submitted,

Date: July 16, 2004

By: _____
Ginger R. Dreger (Reg. No. 33,055)

HELLER EHRMAN WHITE & McAULIFFE LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
Facsimile: (650) 324-0638

SV 2048858 v1
7/16/04 2:19 PM (39780.2630)

OIPE JC185
JAN 0 4 2005
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Sequence Comparison between Figure 161 (SEQ ID NO:400) of the instant application ('824 Application), Genbank Accession No. AAG53612 (Genbank AAG53612), and the sequence disclosed in SEQ ID NO:161 and claimed in U.S. Patent No. 6,475,753 ('752 Patent).

```
                    1                                                  40
'824 Application    MKRASAGGSR LLAWVLWLQA WQVAAPCPGA CVCYNEPKVT
Genbank AAG53612    MKRASAGGSR LLAWVLWLQA WQVAAPCPGA CVCYNEPKVT
'753 Patent         MKRASAGGSR LLAWVLWLQA WQVAAPCPGA CVCYNEPKVT

                    41                                                 80
'824 Application    TSCPQQGLQA VPVGIPAASQ RIFLHGNRIS HVPAASFRAC
Genbank AAG53612    TSCPQQGLQA VPVGIPAASQ RIFLHGNRIS HVPAASFRAC
'753 Patent         TSCPQQGLQA VPVGIPAASQ RIFLHGNRIS HVPAASFRAC

                    81                                                 120
'824 Application    RNLTILWLHS NVLARIDAAA FTGLALLEQL DLSDNAQLRS
Genbank AAG53612    RNLTILWLHS NVLARIDAAA FTGLALLEQL DLSDNAQLRS
'753 Patent         RNLTILWLHS NVLARIDAAA FTGLALLEEL DLSDNAWLRS

                    121                                                160
'824 Application    VDPATFHGLG RLHTLHLDRC GLQELGPGLF RGLAALQYLY
Genbank AAG53612    VDPATFHGLG RLHTLHLDRC GLQELGPGLF RGLAALQYLY
'753 Patent         VDPATFHGLG RLSTVHLDRC GLQELGPGLF RGLAALQYLY

                    161                                                200
'824 Application    LQDNALQALP DDTFRDLGNL THLFLHGNRI SSVPERAFRG
Genbank AAG53612    LQDNALQALP DDTFRDLGNL THLFLHGNRI SSVPERAFRG
'753 Patent         LQDNALQALP DDTFRDLGNL THLFLHGNRI SSVPERAFRG

                    201                                                240
'824 Application    LHSLDRLLLH QNRVAHVHPH AFRDLGRLMT LYLFANNLSA
Genbank AAG53612    LHSLDRLLLH QNRVAHVHPH AFRDLGRLMT LYLFANNLSA
'753 Patent         LHSLDRLLLH QNRVAHVHPH AFRDLGRLMT LYLFANNLSA

                    241                                                280
'824 Application    LPTEALAPLR ALQYLRLNDN PWVCDCRARP LWAWLQKFRG
Genbank AAG53612    LPTEALAPLR ALQYLRLNDN PWVCDCRARP LWAWLQKFRG
'753 Patent         LPTEALAPLR ALQYLRLNDN PWVCDCRARP LWAWLQKFRG

                    281                                                320
'824 Application    SSSEVPCSLP QRLAGRDLKR LAANDLQGCA VATGPYHPIW
Genbank AAG53612    SSSEVPCSLP QRLAGRDLKR LAANDLQGCA VATGPYHPIW
'753 Patent         SSSEVPCSLP QRLAGRDLKR LAANDLQGCA VATGPYHPIW
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                    321                                          360
'824 Application    TGRATDEEPL GLPKCCQPDA ADKASVLEPG RPASAGNALK
Genbank AAG53612    TGRATDEEPL GLPKCCQPDA ADKASVLEPG RPASAGNALK
'753 Patent         TGRATDEEPL GLPKCCQPDA ADKASVLEPG RPASAGNALK

                    361                                          400
'824 Application    GRVPPGDSPP GNGSGPRHIN DSPFGTLPGS AEPPLTAVRP
Genbank AAG53612    GRVPPGDSPP GNGSGPRHIN DSPFGTLPGS AEPPLTAVRP
'753 Patent         GPRAGRGQAR RETVFGPREH .......... ..........

                    401                                          440
'824 Application    EGSEPPGFPT SGPRRRPGCS RKNRTRSHCR LGQAGSGGGG
Genbank AAG53612    EGSEPPGFPT SGPRRRPGCS RKNRTRSHCR LGQAGSGGGG
'753 Patent         .......... .......... .......... ..........

                    441                                  473
'824 Application    TGDSEGSGAL PSLTCSLTPL GLALVLWTVL GPC
Genbank AAG53612    TGDSEGSGAL PSLTCSLTPL GLALVLWTVL GPC
'753 Patent         .......... .......... .......... ...
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OIPE JC185
JAN 0 4 2005
PATENT & TRADEMARK OFFICE

LAM

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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
10/893,802	07/16/2004	1646	964	39780-2630 P1C14C1	133	26	4

35489
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CO 94025-3506

RECEIVED
OCT 1 2 2004
HELLER EHR

CONFIRMATION NO. 4293

FILING RECEIPT

OC000000014018293

Date Mailed: 10/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Avi J. Ashkenazi, San Mateo, CA;
Kevin P. Baker, Darnestown, MD;
David Botstein, Belmont, CA;
Luc Desnoyers, San Francisco, CA;
Dan L. Eaton, San Rafael, CA;
Napoleone Ferrara, San Francisco, CA;
Ellen Filvaroff, San Francisco, CA;
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Wei-Qiang Gao, Palo Alto, CA;
Hanspeter Gerber, San Francisco, CA;
Mary E. Gerritsen, San Mateo, CA;
Audrey Goddard, San Francisco, CA;
Paul J. Godowski, Burlingame, CA;
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Austin L. Gurney, Belmont, CA;
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Margaret Ann Roy, San Francisco, CA;
David L. Shelton, Oakland, CA;
Timothy A. Stewart, San Francisco, CA;
Daniel Tumas, Orinda, CA;
P. Mickey Williams, Half Moon Bay, CA;
William I. Wood, Hillsborough, CA;

DOCKETED

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/978,824 10/17/2001 ABN *
which is a CON of 09/918,585 07/30/2001 ABN
which is a CON of PCT/US00/04341 02/18/2000
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 10/05/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/893,802

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No

Title

Secreted and transmembrane polypeptides and nucleic acids encoding the same

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls,

Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/893,802	07/16/2004	Avi J. Ashkenazi	39780-2630 P1C14C1

CONFIRMATION NO. 4293

FORMALITIES LETTER

OC000000014018294

35489
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CO 94025-3506

Date Mailed: 10/06/2004

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
    - Papers must be legibly written either by a typewriter or mechanical printer in permanent ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable, and white paper. Application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic reproduction by use of digital imaging and optical character recognition. Pages 1-17,169 are not in compliance with 37 CFR 1.52(a).

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **133-236** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes . Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
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PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE JC165
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PTO/SB/21 (09-04)
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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.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/893,802
Filing Date	July 16, 2004
First Named Inventor	Ashkenazi et al.
Art Unit	1653
Examiner Name	Unassigned
Attorney Docket Number	39780-2630P1C14C1

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal
  - [ ] Fee Attached
- [x] Preliminary Amendment
  - [x] Substitue specification
  - [x] Figures 133-236
- [x] copy of Preliminary Amendment
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Notice to File Corrected Application Papers
  - [x] Copy of Notice
- [x] Request for Corrected Filing Receipt and copy of Filing Receipt with changes
- [ ] Statement Under 37 CFR 3.73(b) and copy of Assignment
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [x] Declaration and Power of Attorney for Patent Application (copy)
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] Diskette, Number of Diskette(s) _____
  - [ ] Sequence Listing on Diskette
- [ ] Statement Under 37 CFR 1.821-1.825; paper copy of Sequence Listing (3 pgs.)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):

copy of US Publication No. US2003/0055216 A1; return postcard.

Remarks

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Heller Ehrman White & McAuliffe		
Signature	Leslie Mooi		
Printed name	Leslie Mooi		
Date	November 19, 2004	Reg. No.	37,047

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as Express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: EXPRESS MAIL NO.: EL 976 544 015 US

Signature	Rachel Mena		
Typed or printed name	Rachel Mena	Date	November 19, 2004

This collection of information is required by 37 CFR 1.5. 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 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 0

Complete if Known	
Application Number	10/893,802
Filing Date	07/16/2004
First Named Inventor	Avi Ashkenazi
Examiner Name	Unassigned
Art Unit	1653
Attorney Docket No.	39780-2630P1C14C1

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☑ Deposit Account:

Deposit Account Number: 08-1641

Deposit Account Name: HELLER EHRMAN WHITE & McAULIFFE LLP

The Director is authorized to: *(check all that apply)*

☑ Charge fee(s) indicated below ☑ Credit any overpayments

☑ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims		Fee from below		Fee Paid
Total Claims		-20** =		X	=
Independent Claims		- 3** =		X	=
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 0

SUBMITTED BY				(Complete *(if applicable)*)	
Name (Print/Type)	Leslie Mooi	*Registration No. (Attorney/Agent)*	37,047	*Telephone*	(650) 324-7000
Signature	Leslie Mooi			*Date*	November 19, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/893,802	07/16/2004	Avi J. Ashkenazi	39780-2630 P1C14C1

RECEIVED
OCT 1 2 2004
HELLER EHRMAN

CONFIRMATION NO. 4293

FORMALITIES LETTER

OC000000014018294

35489
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CO 94025-3506

Date Mailed: 10/06/2004

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
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The following item(s) appear to have been **omitted** from the application:

- Figure(s) **133-236** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

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III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes . Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

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Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

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JAN 0 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: Unassigned
Ashkenazi et al.	Art Unit: 1653
Application Serial No. 10/893,802	Confirmation No. 4293
Filed: July 16, 2004	Attorney's Docket No. 39780-2630P1C14C1
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	**Customer No. 35489**

EXPRESS MAIL NO: EL 976 544 015 US
Date Sent: November 19, 2004

REQUEST FOR CORRECTED FILING RECEIPT

Mail Stop Missing Parts
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Attached is a copy of the official filing receipt received from the U.S. Patent and Trademark Office in the above application for which issuance of a corrected filing receipt is respectfully requested. The Domestic Priority Data as claimed by applicant is incorrectly stated and the correction is marked in **red** as it **should** read.

The **correct** Domestic Priority Data is as follows:

This application is a
CON of 09/978,824, 10/16/2001, ABN
which is a CON of 09/918,585, 7/30/2001, ABN
which is a CON of PCT/US00/04341, 2/18/2000,
which claims benefit of 60/134,287, 5/14/1999,
and said PCT/US00/04341, 2/18/2000
is a CIP of PCT/US99/28313, 11/30/1999,
which is a CIP of 09/380,138, 8/25/1999, ABN
which is a 371 of PCT/US99/05028, 3/8/1999,
which claims benefit of 60/079,728, 3/27/1998

A copy of the Preliminary Amendment previously filed on July 21, 2004 setting forth the priority as originally filed is enclosed herewith.

applicants also enclose herewith a Second Preliminary amendment which corrects the order of the priorities found in the original Preliminary Amendment. the Patent Office is requested to use this statement of priority as the basis for the Domestic Priority Data on the corrected Filing Receipt.

The Commissioner is hereby authorized to charge any such fees to Deposit Account No. **08-1641**, referencing attorney's docket no. **39780-2630P1C14C1**.

Issuance of a corrected Filing Receipt is respectfully requested.

Respectfully submitted,

Dated: November 19, 2004

By: Leslie Mooi
Leslie Mooi (Reg. No. 37,047)

HELLER EHRMAN WHITE & McAULIFFE LLP
275 Middlefield Road
Menlo Park, California 94025
Direct Dial: (650) 324-6951
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SV 2081151 v1

OIPE JC165
JAN 0 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: To be Assigned
Avi J. ASHKENAZI, et al..	Art Unit: 1653
Application Serial No. 10/893,802	Confirmation No. 4293
Filed: July 16, 2004	Attorney's Docket No. 39780-2630 P1C14C1
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	**Customer No. 35489**

EXPRESS MAIL LABEL NO. EL 976 544 015 US
Date Mailed: November 19, 2004

PRELIMINARY AMENDMENT AND RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS

Mail Stop Missing Parts
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Prior to substantive examination of the above-identified patent application, Applicants respectfully request the entry of the following amendments. Also enclosed is a Substitute Specification and Figures 133-236.

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Drawings begins on page 3 of this paper.

Remarks begin on page 4 of this paper.

Amendments to the Specification

Please replace the following paragraph at page 1, immediately following the title:

--RELATED APPLICATIONS

This application is a continuation application claiming priority under 35 USC §120 of copending US Application number 09/978,824 filed 10/16/2001, which is a continuation of, and claims priority under 35 USC §120 to, US Application 09/918,585 filed 7/30/2001, which is a continuation of, and claims priority under 35 USC §120 to, PCT Application PCT/US00/04341 filed 2/18/2000, which claims priority under 35 USC §119 to US Provisional Application 60/134,287 filed 5/14/1999, ~~which~~ where PCT Application PCT/US00/04341 is a continuation-in-part of, and claims priority under 35 USC §120 to, PCT Application PCT/US99/28313 filed 11/30/1999, which is a continuation-in-part of, and claims priority under 35 USC §120 to, US Application 09/380,138 filed 8/25/1999, now abandoned, ~~which claims priority under 35 USC §119 to US Provisional Application 60/134,287 filed 5/14/1999,~~ where US Application 09/380,138 is the National Phase filed under 35 USC §371 of PCT Application PCT/US99/05028 filed 3/8/1999, which claims priority under 35 USC §119 to US Provisional Application 60/079,728 filed 3/27/1998, the entire disclosures of which are hereby incorporated by reference.

As requested a substitute specification is enclosed.

Amendments to the Drawings:

Please enter Figures 133-236 enclosed herewith into the specification.

REMARKS

Amendments to the Specification and Drawings

The paragraph at the beginning of page 1 in the specification has been amended. The amended paragraph lists the applications to which priority was claimed for the instant application in the original paragraph. The order of the priorities has been corrected.

In the Drawings, Figures 133-236 have been added. These Figures were present in U.S. Application Number 09/978,824 filed October 16, 2001. In the preliminary amendment filed with the application, Applicants claimed priority to Application Number 09/978,824 and indicated that the entire disclosure of which was incorporated by reference. U.S. Application number 09/978,824 is published as US Publication No. 2003-0055216, a copy of which is enclosed herewith. The Figures enclosed herewith are identical to the Figures in US Publication No. 2003-0055216. Applicants respectfully request that the Figures be entered into the specification.

The current amendments and submissions do not constitute new matter. Applicants respectfully request entry of these amendments for prosecution in this application.

Combined Declaration

Applicants enclose a copy of the inventors Combined Declaration for Patent Application and Power of Attorney as filed in U.S. Patent Application No. 09/918,585. Applicants note that the copy of the Combined Declaration submitted with the application was not complete. Applicants request that the enclosed Combined Declaration be entered.

Notice to File Corrected Application Papers

The Notice to File Corrected Application papers requested a substitute specification be submitted because the specification could not be scanned properly. Applicants enclose herewith a substitute specification, as filed with Figures 133-236 attached. The substitue specification includes no new matter. The amendments in the Preliminary Amendment filed July 16, 2004 and in this amendment have <u>not</u> been entered into the specification.

The Notice to File Corrected Application Papers indicated that Figures 133-236 were not filed. Applicants hereby submit Figures 133-236 and request that they be entered into the specification. These Figures are identical to the Figures in parent U.S. application No. 09/978,824, which is incorporated by reference in its entirety into the application. Entry of these Figures is respectfully requested.

Applicants believe that with entry of the Figures the specification is complete and notification to that effect is respectfully requested.

The Commissioner is hereby authorized to charge any fees for late submission of the Declaration to Deposit Account No. **08-1641**, referencing attorney's docket no. **39780-2630P1C14C1**.

Please charge any fees, including fees for extension of time, or credit overpayment to Deposit Account No. **08-1641**, referencing Attorney's Docket No. **39780-2630 P1C14C1**.

Respectfully submitted,

Date: November 19, 2004

By: Leslie Mooi
Leslie A. Mooi (Reg. No. 37,047)

HELLER EHRMAN WHITE & McAULIFFE LLP
275 Middlefield Road
Menlo Park, California 94025-3506
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11/19/04 10:29 AM (39780.2630)

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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
10/893,802	~~11/18/2004~~ 07/16/2004	1646	964	39780-2630 P1C14C1	237	26	4

CONFIRMATION NO. 4293

UPDATED FILING RECEIPT

OC000000014676656

35489
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CO 94025-3506

Date Mailed: 12/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Avi J. Ashkenazi, San Mateo, CA;
Kevin P. Baker, Darnestown, MD;
David Botstein, Belmont, CA;
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Timothy A. Stewart, San Francisco, CA;
Daniel Tumas, Orinda, CA;
P. Mickey Williams, Half Moon Bay, CA;
William I. Wood, Hillsborough, CA;

DOCKETED

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/978,824 ~~10/17/2001~~ 10/16/2001 ABN
which is a CON of 09/918,585 07/30/2001 ABN
which is a CON of PCT/US00/04341 02/18/2000
which claims benefit of 60/134,287 05/14/1999
(*)~~Data provided by applicant is not consistent with PTO records~~.
and said PCT/US00/04341, 02/18/2000
is a CIP of PCT/US99/28313, 11/30/1999

Foreign Applications which is a CIP of 09/380,138, 08/25/1999 ABN
which is a 371 of PCT/US99/05028, 03/08/1999
which claims benefit of 60/079,728, 3/27/1998

If Required, Foreign Filing License Granted: 10/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/893,802

Projected Publication Date: 03/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Secreted and transmembrane polypeptides and nucleic acids encoding the same

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations

especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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275 MIDDLEFIELD ROAD
MENLO PARK CO 94025-3506

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of
Avi J. Askenazi et al.
Application No. 10/893,802
Filed: July 16, 2004
Attorney Docket No. 39780-2630
P1C14C1

ON PETITION

This is a decision on the petition filed January 4, 2005, requesting that the above-identified application, be accorded a filing date of July 16, 2004.

After the application was filed, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" on October 6, 2004, stating that while the application had been accorded a filing date, that Figures 133-236 as described in the specification, appeared to have been omitted. In response, on November 18, 2004, petitioner filed, *inter alia*, Figures 133-236. Accordingly, the application was accorded a filing date of November 18, 2004.

In response, the present petition was filed. Petitioner now requests that the application be accorded the original filing date of July 16, 2004. Petitioners further state that the instant application is a continuation application of U.S. Serial No. 09/978,824, and is incorporated by reference herein.

The mailing of the "Notice" mailed October 6, 2004 permited the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

It is noted that the application transmittal letter identified this application as a continuation of application no. 09/978,824 and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

As petitioner supplied the omitted drawings without a petition and without establishing prior receipt, thereof in the USPTO, the application was properly accorded a filing date of the date the omitted drawings were filed. Obviously, however, in view of the incorporation by reference of the prior application, Figures 133-236, as described in the specification, are not new matter if they were a part of the disclosure of the prior application.

As a complete application was present on July 16, 2004, on petition, the application as filed is entitled to a filing date of July 16, 2004.

The application will be processed and examined with the copies of Figures 133-236, supplied on January 5, 2004, as a part of the original disclosure. Of course, the primary examiner is expected to compare the drawings supplied on January 5, 2004, to the disclosure of prior application no. 09/978,824 in order to verify that the drawings are, in fact, part of the disclosure of the prior application.

Since the petition was required to accord the requested filing date and since the error occurred through no wrongdoing on the part of the USPTO, petition fee in the amount of $400.00 is required and will be charged to deposit account no. 08-1641. The petition is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to July 16, 2004, using the application papers filed on July 16, 2004, and the copies of Figures 133-236, ssupplied on January 5, 2004 as the original disclosure, and for an indication in Office records that Figures 133-236 were present on filing.

Telephone inquiries regarding this decision 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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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Harold Edward Price
Application No. 10/893,814
Filed: July 19, 2004
Attorney Docket No.: 0021-49 CIP
For: STREAMING MEDIA BUFFERING SYSTEM

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to SPE Ario Etienne 571-272-4001.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jack Harvey
Director, Technology Center 2400
Network, Multiplexing, Cable
and Security

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Paper No. 030304

JUL 29 2005

Robert M. Skolnik
353 Monmouth Road
P.O. Box 22
West Long Branch NJ 07764-0022

In re Application of:	:	
Stephen F. Falco	:	
Serial No.: 10/893,845	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 19, 2004	:	FROM RECORD
Attorney Docket No.:	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 14, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Robert M. Skolnik, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Stephen F. Falco, Jr. at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Stephen F. Falco, Jr.
190 Whale Pond Road
Oakhurst, NJ 07755-1352

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SUITE 101
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OFFICE OF PETITIONS

In re Application of	:	
Takeshi Matushima et al	:	
Application No. 10/893,879	:	DECISION GRANTING PETITION
Filed: July 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11-267W	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 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 2887 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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SEP 12 2005

In re Application of	:	
Cedomir Repac et al.	:	
Serial No. 10/893,883	:	DECISION ON PETITION
Filed: July 20, 2004	:	TO MAKE SPECIAL
For: DEVICE FOR CUTTING FRUITS	:	
AND VEGETABLES, IN PARTICULAR	:	
ONIONS	:	

Applicant's petition, filed August 2, 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.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

Charles P. Boukus, Jr.
2001 Jefferson Davis Hwy., Suite 202
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

1-18-07

Commissioner for Patents
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Patent No. : 7,125,087 B2
Ser. No. : 10/893,892
Inventor(s) : Kazuhiko Kobayashi
Issued : October 24, 20006
Title : BRAKE FLUID PRESSSURE RETAINING DEVICE
Docket No. : Q82572

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
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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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 102

Sughrue Mion, PLLC
2100 Pennsylvania, Avenue, NW
Suite 800
Washington, DC 20037

ej

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 10/02/2008
Patent No. : 7,394,839 B2
Inventor(s) : Han
Issue Date : July 1, 2008
Title : **METHOD AND APPARATUS FOR CONTROLLING LIGHT POWER**
Doc./File No. : **1793.1328**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged errors in your request, the alleged errors is/are printed in accordance with the notice of allowance received in the office on 2/28/2008. In the original claims, it shows exactly what you have requested, however since the office was provided with your most recent document (NOA) entering changes, it supersedes the original claims.

A fee of $100.00 is required to enter the changes requested, since it is of typographical nature which is/are not the fault of the office. Threfore, no correction is in order here.

In view of the foregoing, your request is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

STAAS & HALSEY LLP
SUITE 700
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WASHINGTON DC 20005

ecw

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Suite 370
1800 Diagonal Rd.
Alexandria, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kuroki et al. :
Application No. 10/893,911 :
Filed: July 20, 2004 :
Attorney Docket No. NIP-258-03 :

This is a decision on the petition filed September 21, 2004, requesting, in effect, that the drawing sheet including Figures 10a and 10b filed on September 21, 2004, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on July 20, 2004. On September 16, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of July 20, 2004, and advising applicants that Figures 10a and 10b appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges the missing Figures were filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figures 10a and 10b were submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt . . . .

MPEP 503 states (emphasis added),

> The identifying data on the postcard should include:
> (A) applicant's name(s);
> (B) title of invention;
> (C) **number of pages of specification, claims (for nonprovisional applications), and sheets of drawing**;
> (D) whether oath or declaration is included;
> (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and
> (F) amount and manner of paying the fee.

> A return postcard should be attached to each patent application for which a receipt is desired.
>
> It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO)**. . . .
>
> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**
>
> **The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard.** For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

For the reasons above, the postcard will not serve as prima facie evidence of the filing of Figures 10a and 10b.

While petitioner apparently believes that Figures 10a and 10b were filed on July 20, 2004, the file of application No. 10/893,911[1] shows that the Figures were not received, since no such papers are present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this case, the evidence submitted does not have <u>more</u> probative value than the official government record of what was actual received in the USPTO on July 20, 2004.

Since applicants have not filed a petition under 37 CFR 1.182 requesting September 21, 2004, the date the missing page was filed, as the filing date, the pages filed on September 21, 2004, will <u>not</u> be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application.

---

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 1 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of :
MIZUNO, MAKIO, et al. :
Application No. 10/893,912 :
Filed: July 20, 2004 :
For: **STORAGE SYSTEM, COMPUTER SYSTEM AND INTERFACE MODULE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 24, 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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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Hideto Hidaka et al	:	
Application No. 10/893,964	:	ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. 67161-173	:	

This is a decision on the petition, filed February 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Yukihiro Shibata	: DECISION ON REQUEST FOR
Patent Number	: 7599545	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/893,988	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3800

In re Application of	:	
HIROMITSU NISHIKAWA	:	DECISION ON REQUEST TO
Application No. 10/894015	:	PARTICIPATE IN PATENT
Filed: July 20, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.018264	:	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 February 27, 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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of	:	
Shin Fukita	:	
Application No. 10/894,020	:	DECISION GRANTING PETITION
Filed: July 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 119913	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 3, 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 19, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

Pet. Dec.

Atty. Dkt. No. 065640-0230

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Thomas M. FITCH et al.
Title:	FILTRATION MEDIA
Prior Appl. No.:	10/866,250
Prior Appl. Filing Date:	06/14/2004
Examiner:	To be determined
Art Unit:	To be determined

SN 10/894032
PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
11/16/04

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)

Mail Stop **PETITION**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants hereby petition the Patent and Trademark Office under 37 C.F.R. § 1.102(c) to make special the instant application. It is believed that no fee is due for the instant petition; however, should a fee be required, the PTO is authorized to charge the Deposit Account No. 19-0741. This petition is submitted on the grounds that one of the present applicants is 65 years of age or more as set forth in 37 C.F.R. § 1.102(c). The basis for the petition is to obtain special status for this application so that it receives expedited prosecution.

M.P.E.P. § 708.02 IV provides that "[a]n application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement. No fee is required for such a petition."

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NORTEL NETWORKS LIMITED
3500 CARLING AVENUE
OTTAWA, ON K2H 8E9
CANADA

Mail Date: 04/21/2010

Applicant	: Hang Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7590064	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,037	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

In re Patent No. 7,107,851 :
Issue Date: September 19, 2006 :
Application No. 10/894,084 : ON PETITION
Filed: July 19, 2004 :
Attorney Docket No. 090936.0566 :

This is a decision on the petition filed February 1, 2006, 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 Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

In re Application of	:	
Malcom H. Hodge et al.	:	
Application No. 10/894,092	:	ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. A4-077 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) 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 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 a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2874 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.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
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 :
Gary Culp :
Application No. 10/894,115 : DECISION ON PETITION
Filed: July 19, 2004 :
Attorney Docket No. 72220 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 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 April 13, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 13, 2009. Accordingly, the date of abandonment of this application is April 14, 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, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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) 272-3215.

This application is being referred to the Office of Data Management for processing into a patent.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Christopher Regan, 255 S. Orange Avenue, Ste. 1401, Orlando, Florida 32801

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 12/9/08 Paper No. ____

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No. 10/894119 Patent No. 7460947 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 COCK.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-305-9380 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: Applicant submitted missing 3.73(b) statement (PET. STATUS (11/08/2007)) to perfect petition filed 11/2/2004. Since all conditions to change inventorship have been met, the requested change is approved and proper.

/Thomas G. Black/

3661
Art Unit

PTOL-308 (REV. 7/05) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID R PRESTON & ASSOCIATES APC
5850 OBERLIN DRIVE
SUITE 300
SAN DIEGO CA 92121

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SEP 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Sheila Shaw	:	
Application No. 10/894,135	:	DECISION GRANTING PETITION
Filed: July 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SS-101.P.1.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 27, 2006, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3767.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
ELISABETH S. SUSSEX
455 CANYON DEL REY BLVD. #313
MONTEREY, CA 93940

UNITED STATES PATENT AND TRADEMARK OFFICE

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WALTER A. HACKLER, PH.D.
PATENT LAW OFFICE
SUITE B
2372 S.E. BRISTOL STREET
NEWPORT BEACH, CA 92660-0755

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OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Arlene E. Gwon :
Application No. 10/894,140 :
Filed: July 19, 2004 :
Attorney Docket No. 3231 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2004

Paper No. 092704

LEONARD IMMANUEL TAFEL
1821 AZALEA LANE
MOUNT PROSPECT, IL 60056

In re Application of:	:	
LEONARD IMMANUEL TAFEL	:	DECISION ON PETITION
Serial No.: 10/894,151	:	TO MAKE SPECIAL
Filed: July 19, 2004	:	
Attorney Docket No.:	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 19, 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 declaration from the inventor, Leonard Immanuel Tafel, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton E. 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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OFFICE OF PETITIONS

EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO OH 43697

In re Patent No. 6,935,387	:	
Issue Date: August 30, 2005	:	
Application No. 10/894,173	:	ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. 03152	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 23, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 24, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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John P. Luther
Newman & Newman, LLP
Suite 610
505 Fifth Avenue South
Seattle, WA 98104

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OFFICE OF PETITIONS

In re Application of	:	
Antonio Santiago Rios	:	
Application No. 10/894,188	:	ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application mailed September 9, 2004. A Notice of Abandonment was mailed on June 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $65; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 11, 2007

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction for Appl. No. 10894190 patent no.7140457

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

3616

Art Unit

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUN 30 2008

In re Application of	:	
VINSON, et al.	:	
Application No. 10/894,215	:	DECISION ON PETITION
Filed: July 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **200400129-1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 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 August 17, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 17, 2007. Accordingly, the date of abandonment of this application is August 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 fee of $1400 and the publication fee of $300, (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.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/21/2010

Applicant	: In-Seok Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7633900	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/894,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1548** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

DATE 4-30-07

APPLICATION NUMBER 10/894223

DOC CODE PET. DEC

DOC DATE 5/2/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
JOHNSON, Kevin P.
Application No. 10/894,223
Filed: July 19, 2004
Attorney Docket No. **2479.2018-003**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on April 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG, P.C.**
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/894,223	07/19/2004	Kevin P. Johnson	2479.2018-003

CONFIRMATION NO. 5371

OC000000023600565

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Date Mailed: 04/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Robert N. Blackmon
MEREK, BALCKMON & Voorhees, LLC
673 South Washington Street
Alexandria, Virginia 22314

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OFFICE OF PETITIONS

In re Application of	:	
Murtuza ATTARWALA, et al.	:	DECISION
Application No. 10/894,226	:	ON PETITION
Filed 19 July 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 10.0725	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 24 June 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed 21 September 2004, which 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 22 November 2004.

The present 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 drawings, (2) the petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 21 September 2004 is accepted as having been unintentionally delayed.

The matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon
Petitions Examiner
Office of Petitions

NNH/WL:hn N.H

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GIFFORD, KRASS, GROH,
SPRINKLE & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

In re application of
Charles Farley, et al
Application No. 10/894,228
Filed: July 19, 2004
For: SHIPPING CARRIER

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 15, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 15, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dcg: 11/28/05

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Daniel H. Golub
1701 Market Street
Philadelphia, PA 19103

In re application of Douglas A. Levy et al. Application No. 10/894,252 Filed: July 19, 2004 For: METHOD FOR FACILITATING PURCHASING OF ADVERTISING VIA ELECTRONIC AUCTION	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on September 7, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 02/21/06

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

IP DEPARTMENT OF PIPER RUDNICK LLP
ONE LIBERTY PLACE, SUITE 4900
1650 MARKET ST
PHILADELPHIA PA 19103

In re Application of:
Michael ARNOUSE
Application No. 10/894,253
Filed: July 19, 2004
For: APPARATUS, SYSTEM AND METHOD FOR AIRCRAFT SECURITY AND ANTI-HIJACKING INTERVENTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed July 19, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL GREGORY ZELIN
9555 BERYL STREET
CANAL FULTON, OH 44614

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NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Gregory Zelin	:	
Application No. 10/894,263	:	ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No.	:	

This is in response to the communication, filed August 3, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On August 19, 2008, the Office mailed a Advisory Action, which continued to run from the mailing of the Final Rejection mailed August 19, 2008. The application became abandoned on November 20, 2008, for failure to submit a timely response to the final Office action. On March 30, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the final Office action. Specifically, petitioner states that the Advisory action and the Notice of Non-Compliant Amendment was not received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment and Advisory action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing, explaining the manner in which petitioner receives mail from the USPTO, maintains

files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the final Office action of August 19, 2008, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after August 19, 2008, to demonstrate non-receipt of the final Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the final Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after August 19, 2008; the period when he would have received the final Office action.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the final Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the final Office action, advisory action and the Notice of Non-Compliant Amendment accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR

1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the previously mailed Office actions.

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

08/18/04

Kevin W. King
Sutherland Asbill & Brennan LLP
999 Peachtree Street
Atlanta, GA 30309

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/894265 received on 08/09/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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OFFICE OF PETITIONS

SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of :
Jonathan R. Coppeta et al :
Application No. 10/894,265 :
Filed: July 19, 2004 :
Attorney Docket No. 17509-0090 :

ON PETITION

This is a decision on the petition, filed May 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 9, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3721 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/18/10

TO SPE OF : ART UNIT 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 10894275 Patent No.: 7596226

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.

x **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: _____

Nasser Moazzami 2436

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Deleted: ___

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: George Cherian	: DECISION ON REQUEST FOR
Patent Number	: 7596226	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,275	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **938** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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COPY MAILED

MAY 11 2005

OFFICE OF PETITIONS

DOCKET CLERK
P.O. BOX 802432
DALLAS, TX 75380

In re Application of:	:	
Hughes et al.	:	
Application No. 10/894,286	:	DECISION REFUSING
Filed: July 19, 2004	:	STATUS UNDER
Attorney Docket No.:	:	37 CFR 1.47(a)
STMI06-00004	:	

This is in response to a Petition under 37 CFR 1.47(a), filed March 10, 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 **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 filed March 10, 2005, with an oath or declaration that listed as inventors Richard Jean-Francois Hughes and Phillipe Roche. Applicant files the instant petition to allow these inventors to proceed with the application on their own behalf and of the nonsigning inventor Richard Ferrant.

A review of the oath or declaration filed reveals that it does not list inventor Richard Ferrant.

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: 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
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

ROBERT L. SHAVER
DYKAS, SHAVER & NIPPER, LLP
PO BOX 877
BOISE, ID 83701

Mail Date: 04/21/2010

Applicant	: Glen Richard Eberle	: DECISION ON REQUEST FOR
Patent Number	: 7654426	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,293	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

ROBERT L. SHAVER
DYKAS, SHAVER & NIPPER, LLP
PO BOX 877
BOISE, ID 83701

Mail Date: 04/21/2010

Applicant	: Glen Richard Eberle	: DECISION ON REQUEST FOR
Patent Number	: 7654426	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,293	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr: 03-06

Paper No: 8

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
SUITE 1300
ONE SOUTH MAIN STREET
DAYTON OH 45402-2023

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Hayes, et al.	:	
Application No. 10/894,306	:	NOTICE
Filed: 10 May, 2001	:	
Patent No. 7,032,318	:	
Issue Date 24 April, 2006	:	
Attorney Docket No. SPC 0444	:	

This is a notice regarding the request for acceptance of a fee deficiency submission (properly considered under 37 C.F.R. §1.28) filed 15 May, 2006.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §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 C.F.R. §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 C.F.R. §1.28 hereby is **ACCEPTED**

Inquiries regarding this application should be directed to the Technology Center. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

COPY MAILED

OCT 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Martin Lehmann, et al.	:	
Application No. 10/894,309	:	ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No.: 635.44094X00	:	

This is a decision on the petition, filed October 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2855 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Prasad, et al.	:	
Application No. 10/894,315	:	
Filed: July 20, 2004	:	DECISION ON PETITION
Attorney Docket No. 14012-059001	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed March 22, 2006.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on June 15, 2005. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $750 petition fee is acknowledged.

A "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing", indicating a projected publication date of November 16, 2006, is enclosed.

The matter is being forwarded to Group Art Uni 2173 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/894,315	07/20/2004	Balaji Prasad	14012-059001 / 72-03-048

CONFIRMATION NO. 6786

26230
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 08/10/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/16/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/894,315	07/20/2004	Balaji Prasad	14012-059001 / 72-03-048

CONFIRMATION NO. 6786

26230
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 08/10/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/16/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

Mail Date: 04/21/2010

Applicant	: Randall L. Barbour	: DECISION ON REQUEST FOR
Patent Number	: 7617080	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAILED

JUN 25 2010

OFFICE OF PETITIONS

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

In re Patent No. 7,617,080	:	
Issue Date: November 10, 2009	:	
Application No. 10/894,317	:	DECISION ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. 16855	:	

This is a decision on the petition, filed, December 8, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is The Research Foundation of State University of New York petitioner further states that the assignee's name was not correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that The Research Foundation of State University of New York were the assignee of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

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MAR 17 2006
OFFICE OF PETITIONS

In re Application of :
Clark, et al. : DECISION ON PETITION
Application No. 10/894,319 :
Filed: July 19, 2004 :
Docket No.: FSI0116/US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 27, 2006.

This application was held abandoned September 24, 2005 for failure to timely submit a proper reply to the non-final Office action mailed June 23, 2005. Notice of Abandonment was mailed February 9, 2006.

Petitioners assert that a response to the non-final Office action and a petition for extension of time were timely submitted on October 20, 2005 and have submitted as proof of USPTO receipt of the reply a return postcard dated stamped October 20, 2005.

The original amendment submitted October 20, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

Petitioners are entitled to a refund of the $120.00 extension of time fee submitted with the instant petition as it would appear that an extension of time fee was actually received October 20, 2005. Petitioners may request a refund of the duplicate fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The application file is being forwarded to Technology Center 2800 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 DEPARTMENT OF COMMERCE
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AFTON CHEMICAL CORPORATION
LUEDEKA, NEELY & GRAHAM, PC
P.O. BOX 1871
KNOXVILLE, TN 37901

Mail Date: 04/21/2010

Applicant	: Carl K. Esche JR.	: DECISION ON REQUEST FOR
Patent Number	: 7615519	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,327	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BUCKLEY MASCHOFF & TALWALKAR LLC
5 ELM ST
NEW CANAAN CT 06840

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OFFICE OF PETITIONS

In re Application of :
Donald F. Marchon, Alexander :
Rockaway, Charles A. Munro, Philip :
E. Ramsden : DECISION ACCORDING STATUS
Application No. 10/894,329 : UNDER 37 CFR 1.47(a)
Filed: July 19, 2004
Attorney Docket No. R02.001

This is in response to the petition under 37 C.F.R. §1.47(a), filed July 19, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 19, 2004, without a fully executed oath or declaration. Accompanying the filing is the instant petition under 37 CFR 1.47(a) to have inventors Donald F. Marchon, Charles A. Munro, and Philip E. Ramsden make the application for patent on behalf of themselves and nonsigning inventor Alexander Rockaway.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicants have included a copy of an executed separation agreement, executed by Alexander Rockaway, in which Rockaway agreed that no patent application should be sent to him for his signature.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2661 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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GILBRETH & ASOCIATES, P.C.
P.O. BOX 2428
DELLAIRE, TX 77402-2428

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OFFICE OF PETITIONS

In re Application of :
Bradford S. Hubbard et al :
Application No. 10/894,355 : ON PETITION
Filed: July 18, 2004 :
Attorney Docket No. 27620/06 :

This is a decision on the petition filed October 17, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed May 24, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: J.M. (Mark) Gilbreth
6750 West Loop South, Suite 920
Houston, TX 77401

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PERKINS COIE LLP
PATENT-SEA
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SEATTLE ,WA 98111-1247

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Brown, Beach, Gerrity, Geiger, Manion, and Scherer
Application No.: 10/894,358
Filed: July 19, 2004
Attorney Docket No: 213828013US6
For: **COIN-DISCRIMINATOR VOUCHER ANTI-COUNTERFEITING METHOD AND APPARATUS**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed February 14, 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 19, 2004, without an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on September 14, 2004, requiring an executed oath or declaration and surcharge and payment of claim and filing fees. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on February 14, 2005, with a request for an extension of time within the third month. In the instant petition, petitioner maintains that inventor Manion is not available to execute the declaration.

Petitioner has shown that inventor Manion is not available to join the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Timothy Manion
4712 46th Avenue, SW
Seattle, Washington 98116

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MAR 22 2005

OFFICE OF PETITIONS

In re Application of
Brown, Beach, Gerrity, Geiger, Manion, and Scherer
Application No.: 10/894,358
Filed: July 19, 2004
Attorney Docket No: 213828013US6
For: **COIN-DISCRIMINATOR VOUCHER ANTI-COUNTERFEITING METHOD AND APPARATUS**

: LETTER

Dear Mr. Manion:

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
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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WASHINGTON DC 20005

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Bastiaan Lambertus Van De Ven et al	:	
Application No. 10/894,361	:	DECISION GRANTING PETITION
Filed: July 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.7640000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 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 9, 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 2851 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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EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO OH 43697

In re Patent No. 6,932,123	:	
Issue Date: August 23, 2005	:	
Application No. 10/894,373	:	ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. 04045	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 23, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 24, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ROBERT M. MASON
MASON & PETRUZZI
13601 PRESTON RD., 402W
DALLAS TX 75240

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffery Roy Lowery	:	
Application No. 10/894,376	:	DECISION ON PETITION
Filed: 19 July, 2004	:	
Atty Docket No. Craps CIP	:	

This is a decision on the petition filed on 5 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 8 December, 2004, for failure to timely submit replacement drawings in compliance with 37 CFR 1.84 and 1.121 as required by the Notice to File Corrected Application Papers mailed on 7 October, 2004, which set a two (2) month shortened period for reply. No extensions of time in

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 June, 2005.

Petitioner has submitted replacement drawings with the present petition.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Application of

FREUND, David E.
Application No. 10/894,384
Filed: July 19, 2004
Attorney Docket No. **AP35893 - 074778.0102**

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 04, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID E. FREUND**
8 EMBASSY COURT
ARMONK NY 10504

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of

FREUND, David E.
Application No. 10894,384
Filed: July 19, 2004
Attorney Docket No. **AP35893 - 074778.0102**

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 23, 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 Eliot Williams on behalf of all attorneys of record who are associated with customer No. 21003. All attorneys/agents associated with the Customer Number 21003 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor David Freund at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID E. FREUND**
NORTH CASTLE CAPITAL ADVISORY LLC
8 EMBASSY COURT
ARMONK NY 50822

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JAMES J. CORCORAN, III
1725 LAKE TERRACE ROAD SE
CEDAR RAPIDS, IA 52403

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In re Application of	:	
James J. Corcoran, III	:	
Application No. 10/894,393	:	DECISION ON PETITION
Filed: July 19, 2004	:	
Attorney Docket No. 18238-1	:	

This is a decision on the petition filed under the unintentional provisions of 37 CFR 1.137(b) which is being treated as a petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 11, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 5, 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 March 6, 2006.

The petition is **DISMISSED.**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (1) and (3).

With respect to item 1:

A review of the records shows that the required reply to the outstanding Office action has not been received.

With respect to item 3:

The petitioner has not satisfied the showing requirement has been met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent.

Petitioner states that the response was unavoidably tied up in a conflict with the employer regarding avoiding the appearance of a conflict of interest. The result ended in retention of outside patent counsel was attempted but extremely expensive and the applicant was unable due to time constraints of the employer to respond in a timely manner. This statement does not indicate why a response to the December 5, 2005 non-final Office action was not filed. It does not explain why a possible conflict of interest would have any bearing on responding to an Office action. The statement does not explain what the "time restraints" were and what bearing they had on filing a response.

While the showing of the record is not sufficient to establish to satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of the unintentional delay.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $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).

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1), (2) and (3) under the unintentional standards.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 6, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Shuttleworth & Ingersoll, PLC was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to reply and with whom this matter was discussed outside of the firm and the applicant. 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 then at Shutleworth and Ingersoll, PLC, 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 persons then at Shuttleworth and Ingersoll, PLC and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any further petition to revive 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)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: copy of the Office action dated December 5, 2008.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/894,393	07/19/2004	James J. Corcoran III	18238-1	4401

23486 7590 12/05/2005

SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS, IA 52406

EXAMINER
HOLZEN, STEPHEN A

ART UNIT	PAPER NUMBER
3644	

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/894,393	CORCORAN, JAMES J.	
	Examiner	Art Unit	
	Stephen A. Holzen	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *1-11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/21/2004*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 12-20 in the reply filed on 10/11/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. This application contains claims 1-11 drawn to an invention nonelected without traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 12-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They are replete with grammatical and idiomatic errors. The following list are but a few of the errors the examiner found in the claims. The applicant should understand that this list is not exhaustive, and should review his claims and amend the claims for clarity. Accordingly, the metes and bound of the claim can not be ascertained by one having ordinary skill in the art.

a. Re – Claim 12:

- Preamble is not grammatically correct
  - "of automatic formation flight control of multiple aircraft"
  - "some of which may be unpiloted" (what does "some of which" refer to?)
- "selection of formation" is not a method step
- how does one "calculate...creation of data packets for communication"
- how does one "determine calculations"? The calculations are calculated not determined
- What is doing the directing of the mission flight plan? Is there more than one "flight plan" if there is more than one plane?

b. Claims 13-20: these claims do not recite method steps. Instead these claims recite structural elements. Furthermore these claims do not recite elements that are positively manipulated by any method step. These appear to be random elements not precisely connected with the instant process.

c. Claims 15-20: these claims recite "comprising of". This phrase is not proper. The method does not " further comprising of". This is not grammatically proper.

d. The applicant uses phrases such as "used to", "send to", "to provide", "communicating of" and these phrases are not acceptable and should be reworded. The applicant should amend the claim and use active voice, not passive voice. The claims in general are wordy, and do not amount to method steps.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haissig et al (2005/0165516) in view of Redemske (2,714,309). Haissig discloses a position keeping system for a vehicle formation, where the formation is commanded based on a tracked state referenced to a leader of a "virtual leader" of the formation. Haissig's method keeps a position of a vehicle in formation by receiving leading information over a communication link, acquiring relative position information from a position measurement system, selecting the leader information and the relative position information, determining guidance corrections based on this information. (see ¶0016)

Haissig acquires and calculates the position, speed and winds (inherent) of the aircraft in order to keep the formation constant and continuously monitors

the positions. The formation is continually communicated between the craft in the formation. (see ¶0017)

Haissig does not specifically recite the steps of calculating temperature and pressure. While the examiner believes that all present day aircraft inherently perform this function, the examiner references Redemske to illustrate that the calculation of pressure and temperature are well known in the art. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to calculate the pressure and temperature of air around an aircraft in order to increase flight condition information allowing the pilots to safely fly the plane.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sah

TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER

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JAN 26 2007

OFFICE OF PETITIONS

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

ON PETITION

In re Application of
Norman P. Cloud
Application No. 10/894,395
Filed: July 19, 2004
Attorney Docket No. G0302CON

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 9, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 10, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1638 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of	:
Dragonuk et al.	:
Serial No.: 10/894,402	: PETITION DECISION
Filed: July 19, 2004	:
Attorney Docket No.: G1202	:

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on August 14, 2006, 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(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JUN 15 2007

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Dana S. Rewoldt, Esq.
Advanta USA
2369 330th St.
Box 500
Slater IA 50244

In re Application of	:
Richard Stelpflug	:
Serial No.: 10/894,403	: PETITION DECISION
Filed: July 19, 2004	:
Attorney Docket No.: G2202CON	:

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on August 14, 2006, 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(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of :
Robert J. Donaghey :
Application No. 10/894,406 : DECISION ON PETITION TO
Filed: July 19, 2004 : MAKE SPECIAL

For: **PERSONAL AREA NETWORK WITH AUTOMATIC ATTACHMENT AND DETACHMENT**

This is a decision on the petition filed May 4, 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 petition does not fulfill the requirement in item (3) above. That is, it does not indicate that Applicant will make an election without traverse if the Office determines that all claims are not obviously directed to a single invention.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Doris To
Special Program Examiner
Technology Center 2600

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of
Robert J. Donaghey
Application No. 10/894,406
Filed: July 19, 2004
For: **PERSONAL AREA NETWORK WITH AUTOMATIC ATTACHMENT AND DETACHMENT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the request for reconsideration filed July 7, 2005, on the decision mailed May 27, 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.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Kenneth E. Jaconetty, Esq.
Baxter Healthcare Corporation
One Baxter Parkway, DF3-2E
Deerfield IL 60015

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OFFICE OF PETITIONS

In re Application of
Julia Rashba-Step et al.
Application No. 10/894,410
Filed: July 19, 2004
Attorney Docket No.: 113959-053 (CPEPIC-6072E)
Title: METHODS FOR ENCAPSULATING SMALL SPHERICAL PARTICLES PREPARED BY CONTROLLED PHASE SEPARATION

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed June 10, 2005, 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 24, 2004, which set a shortened statutory period for reply of two (2) months. A partial response was received[2], along with a three-month extension of time to make timely the response. No further extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested, and the replacement drawings were not submitted. Accordingly, the above-identified application became abandoned on February 25, 2005.

With the present petition, Petitioner has submitted the petition fee, replacement drawings, and the proper statement of unintentional delay. Petitioner has also submitted a five-month extension of time. An extension of time under 37 C.F.R. §1.136 must be filed prior to the expiration of the maximum extendable period for reply[3].

---

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.

2 The response failed to contain the replacement drawings.

3 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Accordingly, since the five-month extension of time submitted with the petition on June 10, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address 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. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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[4]. 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 the delay in paying the maintenance fee under 37 CFR §1.137(b) was intentional, petitioner must notify the Office.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: MEHLER,RAYMOND
Cook Alex McFarron Manzo Cummings and Mehler LTD
200 W Adams St Ste 2850
Chicago, IL 60606

4 See 37 CFR 10.18(b); cf. 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Weaver, Austin, Villeneuve & Sampson, LLP
P.O. Box 70250
Oakland, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Michael Frederick et al.	:	
Application No. 10/894,493	:	DECISION ON PETITION
Filed: July 19, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2005.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to C. Douglass Thomas and all attorneys/agents of record have been revoked by the assignee of the patent application on January 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: Sterne, Kessler, Goldstein & Fox, P.L.L.C.
1100 New York Avenue, NW
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Harms et al. :
Application No. 10/894,497 :
Filed: July 19, 2004 :
Attorney Docket No. PA643C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 3, 2008. A Notice of Abandonment was mailed January 26, 2009.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2611 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID J. BREMER
4921 N. DAMEN AVENUE
CHICAGO, IL 60625

MAILED JUN 2 6 2006

In re Application of
GAVIN ET AL.
Application No.: 10/894,512
Filed: July 20, 2004

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on January 17, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

A petition under MPEP § 708.02(VIII) requires (1) a petition and the fee therefor, (2) the presentation of all claims directed to a single invention or a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so, (3) a statement that a pre-examination search was made, specifying whether the search was made by the inventor, the attorney, if any, a professional searcher, etc., and listing the field of search by class and subclass, (4) a copy of each reference deemed closely relevant to the claimed subject matter, and (5) a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's petition lack items (2) and (5) above.

In regard to item (2), petitioner has not indicated whether all the claims are directed to a single invention or provided a statement that applicant will, without traverse, elect a single invention for prosecution if required to do so.

In regard to item (5), the discussion of references by petitioner does not point out the language in the claims that distinguishes them from the references as required by 37 CFR 1.111 (b) and (c). 37 CFR § 1.111 (b) states in part "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section."

37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. In particular, the prior art is not discussed relative to the patentable novelty of independent claims 1, 6, 11, 12, 14, and 15.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

Since the petition is dismissed, the application will be examined in its regular turn.

Petitioners may file a renewed petition, without fee, addressing the points raised above. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.102." The rules and MPEP sections cited may be found on the USPTO website at: www.uspto.gov.

Any inquiry regarding this decision should be directed to Linda J. Sholl, Special Program Examiner, at (571) 272-4391.

Linda J. Sholl
Special Program Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SABRE TECHNICAL SERVICES CORP.
4917 N. DAMEN AVE.
CHICAGO, IL 60625

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OFFICE OF PETITIONS

In re Application of Gavin et al. :
Application No. 10/894,512 :
Filing Date: July 20, 2004 :
Attorney Docket No. PRTLID01A :

Decision on Petition

This is a decision on the petition filed January 23, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

37 CFR 1.33(b) states,

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent.

The petition is not properly signed. Specifically, the petition is only signed by one of the three inventors. The merits of the petition will not be considered until a properly signed petition is filed. In other words, any request for reconsideration should be signed by a registered patent practitioner, an assignee as provided in 37 CFR 3.71(b) or all of the inventors.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

SABRE TECHNICAL SERVICES CORP.
4917 N. DAMEN AVE.
CHICAGO, IL 60625

In re Application of Gavin et al. :
Application No. 10/894,512 : Decision on Petition
Filing Date: July 20, 2004 :
Attorney Docket No. PRTLID01A :

This is a decision on the petition filed May 12, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a Notice of Allowance and Fee(s) Due on September 15, 2008. The Notice set a statutory period for reply of three (3) months. The Notice of Allowance stated, with emphasis added in bold,

> PART B - FEE(S) TRANSMITTAL, or its equivalent, **must** be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required).

The Address as the top of the Notice of Allowance was:

> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450

The Notice of Allowance was accompanied by a Part B - Fee(s) Transmittal Form ("Part B form"). The Part B form stated,

> Complete and send this form, together with the applicable fee(s) to:
>
> Mail Mail Stop ISSUE FEE
> Commissioner for Patents

P.O. Box 1450
Alexandria, VA 22313-1450

or Fax (571)-273-2885

The Part B form also stated, with emphasis added,

> NOTE: The Issue Fee and Publication Fee (if required) will **not** be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

The Office's image file wrapper for the application includes a copy of the first page of the Notice of Allowance mailed by petitioner to the Office. The page includes a stamp added by the Office indicating the page was accompanied by payment of $720 for the issue fee and $300 for the publication fee. The date-stamp added to the page by the Office indicates the Notice was received on December 18, 2008.

Petitioner alleges the issue fee and publication fee were received by the Office on December 15, 2008. In support of the petition, petitioner has supplied a copy of a United Parcel Service ("UPS") tracking statement showing a package was mailed December 10, 2008, and received by the Office on December 12, 2008. A "Daily Shipment Detail Report" submitted by petitioner indicates the December 10, 2008 correspondence was addressed to:

> Commissioner for Patents
> USPTO
> 3rd Floor
> 2051 Jamieson Avenue
> Alexandria, VA 22314

Discussion

In order for the petition to be granted, petitioner must prove not only that a reply was timely filed, but also prove the reply was a proper reply. The evidence of record fails to indicate the reply was a proper reply.

As previously noted, the Part B form mailed by the Office stated,

> The Issue Fee and Publication Fee (if required) will **not** be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

37 CFR 1.33(b) states,

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);

(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent.

MPEP 1306 states,

> The [issue and publication] fee(s) due will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34.

The issue fee and publication fee do not appear to have been accompanied by a cover letter signed by any party. The copy of the Notice of Allowance returned by petitioner fails to include any signatures. Petitioner has not alleged all three inventors or a registered patent attorney or agent signed any form or letter accompanying the issue fee and publication fee.

The submission of the issue fee, publication fee, and an unsigned copy of the Notice of Allowance, without more, is not a proper reply to a Notice of Allowance.

Since the reply was improper due to a lack of proper signature(s), the Office need not determine:
(1) Whether or not returning a copy of the Notice of Allowance sufficient to be considered the submission of a form equivalent to the Part B form, or
(2) Whether or not the reply was timely filed.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (a copy of a properly signed issue fee transmittal form), the required petition fee ($810 for a small 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.

A copy of a PDF "fillable" version of a petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

cc: William Hallihan
Hallihan IP Partners, LLP
Suite 200
117 N. Jefferson Street
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

SABRE TECHNICAL SERVICES CORP.
4917 N. DAMEN AVE.
CHICAGO, IL 60625

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OFFICE OF PETITIONS

In re Application of Gavin et al. :
Application No. 10/894,512 : Decision on Petition
Filing Date: July 20, 2004 :
Attorney Docket No. PRTLID01A :

This is a decision on the petition filed August 27, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a Notice of Allowance and Fee(s) Due on September 15, 2008. The Notice set a statutory period for reply of three (3) months and required the submission of $720 for the issue fee and $300 for the publication fee.

The Address at the top of the Notice of Allowance was:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The Notice of Allowance was accompanied by a Part B - Fee(s) Transmittal Form ("Part B form"). The Part B form stated the form should be completed and mailed with the fees to:

	Mail	Mail Stop ISSUE FEE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
or	Fax	(571)-273-2885

The Notice of Allowance also stated, with emphasis added in bold,

> PART B - FEE(S) TRANSMITTAL, or its equivalent, **must** be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required).

The Office's image file wrapper for the application includes a copy of the first page of the Notice of Allowance mailed by petitioner to the Office. The copy of the first page does not contain any signatures. The page includes a stamp added by the Office indicating the page was accompanied by payment of $720 for the issue fee and $300 for the publication fee. The date-stamp added to the page by the Office indicates the Notice was received on December 18, 2008.

Petitioner alleges the issue fee and publication fee were received by the Office on December 15, 2008. In support of the petition, petitioner has supplied a copy of a United Parcel Service ("UPS") tracking statement showing a package was mailed to the Office on December 10, 2008, and was received by the Office on December 12, 2008. A "Daily Shipment Detail Report" submitted by petitioner indicates the December 10, 2008 correspondence was addressed to:

> Commissioner for Patents
> USPTO
> 3rd Floor
> 2051 Jamieson Avenue
> Alexandria, VA 22314

Discussion

The Notice of Allowance clearly stated the Part B form, or its equivalent, must be submitted with the fees. The only paper filed by inventor Gavin was a copy of the first page of the Notice of Allowance.

37 CFR 1.33(b) states, with emphasis added,

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be** signed by:
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent.

A Part B form, or its equivalent, is not a written assertion pursuant to 37 CFR 1.27(c)(2)(ii). Therefore, the form or its equivalent **must** be signed by one of the parties listed above.

In this case, the copy of the first page of the Notice of Allowance was unsigned. In other words, the page was not signed by one of the parties above.

Since the copy of the first page of the Notice of Allowance was unsigned, the application is abandoned *even if* the submission of a copy of the first page of the Notice of Allowance can be construed to be equivalent to the submission of the Part B form.

Although the petition states the check was signed by Gavin, the plain language of 37 CFR 1.33(b) states amendments and other papers must be signed. The regulation does not state amendments or other papers must be signed unless a properly signed check is filed at the same time.

The Office does not consider a signature on a check is the equivalent of a signature on correspondence. For example, if an unsigned Notice of Appeal is filed, the fact the check for the Notice of Appeal was signed by a proper party would not change the fact the actual Notice of Appeal is defective. If signatures on checks were considered equivalent to signatures on correspondence, the Office would be forced to track and locate copies of cancelled checks every time a piece of correspondence was filed without a signature.

Since the first page of the issue fee transmittal page was unsigned, the Office need not determine

(1) Whether or not a copy of the first page of a Notice of Allowance is equivalent to a Part B form;
(2) Whether or not an issue fee transmittal form, or its equivalent, signed by only one inventor is proper; or
(3) Whether or not the copy of the first page of the Notice of Allowance and the check were timely filed.

Issue Involving the Correspondence Address

The prior decision mailed on June 17, 2009, stated,

> There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to the language quoted above, the instant decision is only being mailed to the address of record.

Petitioner's Options

Any request for reconsideration under 37 CFR 1.181 must be filed within two months of the mailing date of this decision.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied

by the required reply (a copy of a properly signed issue fee transmittal form), the required petition fee ($810 for a small 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. A copy of a PDF "fillable" version of a petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

The Office notes, if petitioner does not wish to file a new request for reconsideration under 37 CFR 1.181 or to file a petition under 37 CFR 1.137, petitioner can request a refund of the total of $755 paid for the issue fee and the $300 paid for the publication fee. Any request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

SABRE TECHNICAL SERVICES CORP.
4917 N. DAMEN AVE.
CHICAGO, IL 60625

In re Application of Gavin et al.	:	
Application No. 10/894,512	:	Decision on Petition
Filing Date: July 20, 2004	:	
Attorney Docket No. PRTLID01A	:	

This is a decision on the petition filed November 27, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a Notice of Allowance and Fee(s) Due on September 15, 2008, requiring submission of $720 for the issue fee and $300 for the publication fee. The Notice set a statutory period for reply of three (3) months. The Notice of Allowance stated, with emphasis added in bold,

> PART B - FEE(S) TRANSMITTAL, or its equivalent, **must** be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required).

The Notice of Allowance was accompanied by a Part B - Fee(s) Transmittal Form ("Part B form"). The Part B form stated, with emphasis added,

> NOTE: The Issue Fee and Publication Fee (if required) will **not** be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

One of the three inventors responded to the Notice of Allowance by mailing a check for the required fees. The only paper filed with the check was a copy of the first page of the Notice of Allowance.

The copy of the first page of the Notice of Allowance did not include a signature or information indicating the identity of the party submitting the paper. The only information the inventor added to the page was the following handwritten language: "12086 $1070.- 12/9/08."

The copy of the first page of the Notice of Allowance filed by petitioner includes a date-stamp indicating the paper was received December 18, 2008.

The Office mailed a Notice of Abandonment on January 8, 2009, indicating the application was abandoned because the payment of the issue fee and publication fee on December 18, 2008, was untimely.

The First Petition

Petitioner filed a petition to withdraw the holding of abandonment on January 23, 2009. The January 23, 2009 petition was only signed by inventor Kevin Gavin.

The petition stated the fees were timely received by the Office on December 12, 2008. The petition included a copy of a USPS tracking statement indicating, on December 12, 2008, the Office received a package that had been mailed on December 10, 2008.

The amount of the issue fee was increased to $755 as of October 2, 2008. The petition included an additional $35 due as a result of the increase.

A decision dismissing the January 23, 2009 petition was mailed April 9, 2009. The decision stated,

> 37 CFR 1.33(b) states,
>
> > Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> > (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> > (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> > (3) An assignee as provided for under § 3.71(b) of this chapter; or
> > (4) All of the applicants (§ 1.41(b)) for patent.
>
> The petition is not properly signed. Specifically, the petition is only signed by one of the three inventors. The merits of the petition will not be considered until a properly signed petition is filed. In other words, any request for reconsideration should be signed by a registered patent practitioner, an assignee as provided in 37 CFR 3.71(b) or all of the inventors.

The Second Petition

A request for reconsideration was filed May 12, 2009. The request included a proper signature. Specifically, the request was signed by Patent Attorney William Hallihan. Therefore, the merits of the request for reconsideration were considered by the Office.

On June 17, 2009, the Office mailed a decision dismissing the May 12, 2009 petition. The decision stated,

> In order for the petition to be granted, petitioner must prove not only that a reply was timely filed, but also prove the reply was a proper reply. The evidence of record fails to indicate the reply was a proper reply.
>
> As previously noted, the Part B form mailed by the Office stated,
>
> > The Issue Fee and Publication Fee (if required) will **not** be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.
>
> 37 CFR 1.33(b) states,
>
> > Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> > (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> > (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> > (3) An assignee as provided for under § 3.71(b) of this chapter; or
> > (4) All of the applicants (§ 1.41(b)) for patent.
>
> MPEP 1306 states,
>
> > The [issue and publication] fee(s) due will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34.
>
> The issue fee and publication fee do not appear to have been accompanied by a cover letter signed by any party. The copy of the Notice of Allowance returned by petitioner fails to include any signatures. Petitioner has not alleged all three inventors or a registered patent attorney or agent signed any form or letter accompanying the issue fee and publication fee.
>
> The submission of the issue fee, publication fee, and an unsigned copy of the Notice of Allowance, without more, is not a proper reply to a Notice of Allowance.
>
> Since the reply was improper due to a lack of proper signature(s), the Office need not determine:

(1) Whether or not returning a copy of the Notice of Allowance sufficient to be considered the submission of a form equivalent to the Part B form, or
(2) Whether or not the reply was timely filed.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b)....

The Third Petition

A renewed petition was filed August 27, 2009. A decision dismissing the petition was mailed September 21, 2009. The decision stated,

The Notice of Allowance clearly stated the Part B form, or its equivalent, must be submitted with the fees. The only paper filed by inventor Gavin was a copy of the first page of the Notice of Allowance.

37 CFR 1.33(b) states, with emphasis added,

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be** signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent.

A Part B form, or its equivalent, is not a written assertion pursuant to 37 CFR 1.27(c)(2)(ii). Therefore, the form or its equivalent **must** be signed by one of the parties listed above.

In this case, the copy of the first page of the Notice of Allowance was unsigned. In other words, the page was not signed by one of the parties above.

Since the copy of the first page of the Notice of Allowance was unsigned, the application is abandoned *even if* the submission of a copy of the first page of the Notice of Allowance can be construed to be equivalent to the submission of the Part B form.

Although the petition states the check was signed by Gavin, the plain language of 37 CFR 1.33(b) states amendments and other papers must be signed. The regulation does not state amendments or other papers must be signed unless a properly signed check is filed at the same time.

The Office does not consider a signature on a check is the equivalent of a signature on correspondence. For example, if an unsigned Notice of Appeal is filed, the fact the check for the Notice of Appeal was signed by a proper party would not change the fact the

actual Notice of Appeal is defective. If signatures on checks were considered equivalent to signatures on correspondence, the Office would be forced to track and locate copies of cancelled checks every time a piece of correspondence was filed without a signature.

Since the first page of the issue fee transmittal page was unsigned, the Office need not determine

(1) Whether or not a copy of the first page of a Notice of Allowance is equivalent to a Part B form;
(2) Whether or not an issue fee transmittal form, or its equivalent, signed by only one inventor is proper; or
(3) Whether or not the copy of the first page of the Notice of Allowance and the check were timely filed.

Opinion

The Notice of Allowance stated, with emphasis added in bold,

> PART B - FEE(S) TRANSMITTAL, or its equivalent, **must** be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required).

For purposes of the following discussion concerning the lack of a signature, the Office has assumed the copy of the first page of the Notice of Allowance submitted by petitioner is the equivalent of the "Part B - Fee(s) Transmittal" form.

The instant petition argues the Notice of Allowance did not explicitly state the reply must be signed. However, the requirement for the reply to be signed can be found in 37 CFR 1.33(b) which states,

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent.

The copy of the first page of the Notice of Allowance is a paper and is not a written assertion pursuant to 37 CFR 1.27(c)(2)(ii). Therefore, a signature was required if the paper was "filed."

Petitioner argues the provisions of 37 CFR 1.33(b) are inapplicable because the copy of the first page of the Notice of Allowance was "returned," not "filed." The petition states no paper was actually filed because the USPTO is the party that "files" papers. The petition states, "It is noted that 'filed" and transmission or returning mean different things because 37 CFR differentiates between such terminology."

Although the Office has considered the arguments, the Office has determined the copy of the first page of the Notice of Allowance was "filed" within the meaning of 37 CFR 1.33(b).

Petitioner argues the USPTO is the party that actually files papers. However, several PTO regulations recognize applicants, patent practitioners, and assignees "file" papers, not the Office.

37 CFR 1.31 states, with emphasis added, "An *applicant* for patent *may file* and prosecute his or her own case."

37 CFR 1.33(a)(1) states, with emphasis added,

> If a § 1.63 oath or declaration has not been *filed by any of the inventors*, the correspondence address may be changed by the party who filed the application. If the *application was filed by a patent practitioner*, any other patent practitioner named in the transmittal papers may also change the correspondence address.

37 CFR 1.33(a)(2) states, with emphasis added,

> If a § 1.63 oath or declaration *has been filed, or is filed* concurrent with the filing of an application, *by any of the inventors*, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

37 CFR 1.53(g)(1) states, with emphasis added,

> If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet required by § 1.51(c)(1) or the basic filing fee (§ 1.16(d)), and applicant has provided a correspondence address (§ 1.33(a)), *applicant will be* notified and *given a period of time within which to* pay the basic filing fee, *file a cover sheet* (§ 1.51(c)(1)), and pay the surcharge required by § 1.16(g) to avoid abandonment.

The copy of the first page of the Notice of Allowance was "filed" in this case, the copy of the page was not written assertion pursuant to 37 CFR § 1.27(c)(2)(ii), and the Paper was not signed by one of the parties listed in 37 CFR 1.33(b). Therefore, the application is abandoned.

Petitioner cites *Taylor v. United States Patent and Trademark Office*, 339 Fed. Appx. 995 (Fed. Cir. 2009) "for its persuasive value." Petitioner also cites *Patlex v. Corp. v. Mossinghoff*, 758 F.2d 594, 606 (Fed. Cir. 1985).

The decision in *Taylor* involved the Office accepting $1,030 and not notifying the patentee the payment was insufficient until several years later. In *Taylor*, the Office also failed to notify the patentee the patent had expired until several years after the patent's expiration. In *Taylor*, the court concluded the Office had failed to comply with MPEP 2531.

The instant case does not involve the Office accepting money for the issue fee and not notifying the inventors of a problem until several years later. The Office notified patentee of the problem,

and the fact the application was abandoned, less than a month after the submission of the issue fee.

Although petitioner cites *Patlex*, the relevance of the *Patlex* decision is unclear. In *Patlex*, the court held several statutes were constitutional, that MPEP 2286 does not violate any statutory or constitutional limits, and determined the plaintiff lacked standing to raise issues involving MPEP 2240-2244.

Since the application is abandoned because the copy of the first page of the Notice of Allowance filed by an inventor was unsigned, the Office need not determine

(1) Whether or not a copy of the first page of a Notice of Allowance is equivalent to a Part B form;
(2) Whether or not an issue fee transmittal form, or its equivalent, signed by only one inventor is proper; or
(3) Whether or not the copy of the first page of the Notice of Allowance and the check were timely filed.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (a properly signed issue fee transmittal sheet), the required petition fee ($810 for a small 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.

A PDF "fillable" version of a petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

If petitioner does not request reconsideration and does not wish to pursue revival of the application, petitioner may request a refund of the $720 paid for the issue fee on December 18,

2008, the $300 paid for the publication fee on December 18, 2008, and the payment of $35 submitted on January 23, 2009. Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. The request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SABRE TECHNICAL SERVICES CORP.
4917 N. DAMEN AVE.
CHICAGO, IL 60625

MAILED
JUL 20 2010
OFFICE OF PETITIONS

In re Application of Gavin et al. :
Application No. 10/894,512 :
Filing Date: July 20, 2004 :
Attorney Docket No. PRTLID01A :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2010, to revive the above-identified application.

The petition is **granted**.

The Office mailed a "Notice of Allowance and Fee(s) Due" on September 15, 2008, setting a statutory period for reply of three (3) months. A proper reply to the notice was not timely filed. As a result, the application became abandoned on December 16, 2008. The Office mailed a Notice of Abandonment on December 18, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has met the requirements set forth above to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL M. HARTRICH
P.O. BOX 2335
SANTA CRUZ CA 95063

COPY MAILED

JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Hartrich :
Application No. 10/894,516 : ON PETITION
Filed: July 20, 2004 :
Attorney Docket No. N/A :
For: POWER CORD CONNECTION AND STRAIN RELIEF DEVICE

This is a decision on the petition under 37 CFR 1.181, filed May 18, 2007, to withdraw the holding of abandonment.

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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to timely submit excess claim fees. A Notice to File Corrected Application Papers, mailed November 8, 2004, required applicant to submit $43.00 in additional claim fees and replacement drawings. On November 26, 2004, applicant submitted a replacement drawing and a check for $43.00. On December 29, 2004, the Office mailed a Notice of Incomplete Reply (Nonprovisional) requesting that applicant submit $100.00 in additional claim fees. This application became abandoned because applicant did not respond. A Notice of Abandonment was mailed on May 2, 2007.

Petitioner requests withdrawal of the holding of abandonment because applicant purportedly transmitted to the Office via facsimile authorization to charge $1.00 to his credit card on January 4, 2005.

The Office has no record of receiving authorization to charge $1.00 to applicant's credit card. Even if the Office had received it, it would not have satisfied the requirement set in the December 29, 2004 Notice. It is unfortunate that the November 8, 2004 Notice did not list the proper payment due. However, the error in the first Notice does not excuse applicant's failure to properly respond to the second Notice, mailed December 29, 2004. The Office was required to

collect a specific fee for 1 independent claim in excess of 3. On October 1, 2004, the fee for filing one independent claim in excess of 3 was $44.00. The first Notice did not list the proper amount due. The second Notice, mailed December 29, 2004, listed the proper amount due at that time, which was $100.00. The $43.00 already paid would have been applied towards the $100.00 fee.

Applicant owed and still owes $57.00. Even if the Office had set a new two month time period for response in the second Notice (because more fees were due than what was listed in the first Notice), the application would still be abandoned because the $57.00 fee has yet to be paid.

Applicant is reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during a telephone conversation cannot nullify the December 29, 2004 Notice, which required timely submission of excess fees to avoid abandonment of the application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Given the facts and circumstances of this case, petitioner is encouraged to file a petition to revive under the unavoidable standard of 37 CFR 1.137(a). The petition fee is $250.00. The required reply is $57.00. For petitioner's convenience, a blank copy of Petition for Revival of an Application Abandoned Unavoidably under 37 CFR 1.137(a).

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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Petition for Revival of an Application Abandoned Unavoidably under 37 CFR 1.137(a)

PTO/SB/61 (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 UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 hours 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

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	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

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

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 UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

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

MICHAEL M. HARTRICH
P.O. BOX 2335
SANTA CRUZ CA 95063

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Hartrich
Application No. 10/894,516
Filed: July 20, 2004
Attorney Docket No. N/A
For: POWER CORD CONNECTION AND STRAIN RELIEF DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 22, 2007 (certificate of mailing date June 20, 2007), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.

This application was held abandoned for failure to timely submit excess claim fees. A Notice to File Corrected Application Papers, mailed November 8, 2004, required applicant to submit $43.00 in additional claim fees and replacement drawings. On November 26, 2004, applicant submitted a replacement drawing and a check for $43.00. On December 29, 2004, the Office mailed a Notice of Incomplete Reply (Nonprovisional) requesting that applicant submit $100.00 in additional claim fees. This application became abandoned because applicant did not respond. A Notice of Abandonment was mailed on May 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of additional claim fees in the total amount of $100.00 ($43.00 previously submitted added to $57.00 paid with the present petition); (2) the petition fee of $250.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JAN 18 2007

OFFICE OF PETITIONS

LAW OFFICES OF LARRY K. ROBERTS, INC.
2 Park Plaza
Suite 300
Irvine CA 92614

In re Application of	:	
Huseynov, et al.	:	
Application No. 10/894,570	:	ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. 1742	:	

This is a decision on the petition under 37 CFR 1.182(a), filed October 18, 2006 to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

Javid J. Huseynov
Shankar Baliga
Gary D. Shubinsky
Zvi Boger

A corrected filing receipt is enclosed.

The application file is directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/894,570	07/20/2004	2612	811	1742	9	53	6

CONFIRMATION NO. 8700

CORRECTED FILING RECEIPT

OC000000022025336

52207
LAW OFFICES OF LARRY K. ROBERTS, INC.
2 Park Plaza
Suite 300
Irvine, CA 92614

Date Mailed: 01/17/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Javid J. Huseynov, Irvine, CA;
Shankar Baliga, Irvine, CA;
Gary D. Shubinsky, Mission Viejo, CA;
Zvi Boger, Be'er Sheva, ISRAEL;

Power of Attorney:

Larry Roberts--28464
Peter Reitan--48603

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/894,570

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

FLAME DETECTION SYSTEM

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 04/30/2010

Applicant	: Frank R. Dropps	: DECISION ON REQUEST FOR
Patent Number	: 7630384	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/894,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **928** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of
Lowinger et al.
Application No. 10/894,609
Filed: July 20, 2004
Attorney Docket No. LOW-10202/29
For: Tissue Adhesive Sealant

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 7, 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Some papers, such as the Application Data Sheet, indicate the correspondence address should be the address associated with customer number 25006. Some papers such as the declaration indicate the correspondence address should be the street address for the law firm. The Patent Office will assume petitioner desires the correspondence address be the address associated with customer number 25006. If petitioner wishes to change the address of record, petitioner may file a request to change the address.

Effective June 25, 2004, the Patent and Trademark Office discontinued accepting the appointment of associate attorneys.[1] Therefore, the Office cannot grant a power of attorney to the attorneys listed on the power of attorney signed by Avery Goldstein.

The Office of Initial Patent Examination will be informed of the instant decision so that it may consider the request for corrected filing receipt and further process the application.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29,865 (May 26, 2004).

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Paper No. None

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Jacobson et al.	:	
Application No. 10/894,610	:	DECISION ON TWO PETITIONS
Filed: July 20, 2004	:	UNDER 37 CFR 1.78(a)(6) AND
Attorney Docket No. E-23	:	1.137(B)
Title: LOW COST PORTABLE COMPUTING	:	
DEVICE	:	

This is a decision on the two petitions 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, and 37 CFR 1.137(b) [1], to revive the above-identified application. Both petitions were filed concurrently on May 1, 2006.

The petition under 37 CFR 1.137(b)

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts of Nonprovisional Application (notice), mailed September 23, 2004, which set a period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 24, 2004.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal

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 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.

disclaimer is not required. Petitioner has failed to meet the first requirement of Rule 1.137(b): Petitioner has submitted $9 for four total claims over twenty. Although this is the amount which was specified in the notice, Petitioner will note that the fee which is required due to the submission of claims in excess of twenty has increased since the mailing of this notice on September 23, 2004. The fee which is presently associated with this filing is $25 for a small entity. Petitioner's submission is thus deficient by $16, and it does not appear that Petitioner has submitted a general authorization to charge any deficiencies to a deposit account.

As such, the petition under 37 C.F.R. 1.137(b) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover 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 petition under 37 CFR 1.78(a)(6)

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements have been satisfied, however the petition under 37 CFR 1.78(a)(6) cannot be granted until the application has been revived, for the present application must be pending in order for a claim for priority under 37 CFR 1.78(a)(6) to be established.

Any reply to this decision should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.78(a)(6) and 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, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Notice of Fee Due (please note that this notice mistakenly indicates that $14 is due, when in fact the deficiency is $16.)

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

Document Code: IMIS

Notice of Fee Due

Date: 05-04-06

Application Number: 15894610

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☐ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____.
- ☑ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☐ No authorization to charge a deposit account.

Fee code(s) to be applied:	2202	$ 28.00
Amount in holding fee code:	1622	
	2622	
	1999	$ 14.00
Total remaining due from applicant:		$ 9.00

RAM Operator /Balma n

Rev. 4/20/06

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Paper No. None

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

COPY MAILED

MAR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph M. Jacobson et al.	:	
Application No. 10/894,610	:	DECISION ON TWO RENEWED
Filed: July 20, 2004	:	PETITIONS UNDER 37 C.F.R.
Attorney Docket No. E-23	:	§§1.78(a)(6) AND 1.137(B)
Title: LOW COST PORTABLE	:	
COMPUTING DEVICE	:	

This is a decision on the two renewed petitions under 37 C.F.R. §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 a previously filed amendment, and 37 C.F.R. §1.137(b)[1], to revive the above-identified application. Both petitions were filed concurrently on November 29, 2006.

It is noted in passing that it does not appear that a Power of Attorney document has been filed in conjunction with this application. As such, Petitioner does not have power of attorney.

The renewed petition under 37 C.F.R. §1.137(b)

The above-identified application became abandoned for failure to

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1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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.

reply in a timely manner to the Notice of Missing Parts of Nonprovisional Application (notice), mailed September 23, 2004, which set a period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 24, 2004. The original petition was filed on May 1, 2006, along with the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. The petition was dismissed via the mailing of a decision on September 29, 2006, for failure to submit the required reply. The decision indicated, in *pertinent part*:

> Petitioner has submitted $9 for four total claims over twenty Although this is the amount which was specified in the notice, Petitioner will note that the fee which is required due to the submission of claims in excess of twenty has increased since the mailing of this notice on September 23, 2004. The fee which is presently associated with this filing is $25 for a small entity. Petitioner's submission is thus deficient by $16, and it does not appear that Petitioner has submitted a general authorization to charge any deficiencies to a deposit account.

With this renewed petition, Petitioner has submitted the fee deficiency. As such, this renewed petition under 37 C.F.R. 1.137(b) is **GRANTED**.

<u>The renewed petition under 37 C.F.R. §1.78(a)(6)</u>

The original petition was filed on May 1, 2006, and was dismissed via the mailing of a decision on November 29, 2006. The decision erroneously indicated that all the requirements had been satisfied, when in fact, the priority claim contained an improper incorporation by reference. On March 13, 2007, Petitioner submitted a new amendment to the specification, deleting this incorrect incorporation by reference statement.

This renewed petition under 37 C.F.R. §1.78(a)(6) is **GRANTED**.

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.

<u>The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. §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</u>

application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 C.F.R. §§1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the Examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

(Charles Steven Bradley)

for Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

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4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/894,610	07/20/2004	2851	437	E-23	6	24	3

CONFIRMATION NO. 6774

CORRECTED FILING RECEIPT

021253
CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA02673-2516

Date Mailed: 12/12/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Joseph M. Jacobson, Newton, MA;
Nicholas Negroponte, Boston, MA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/566,307 04/29/2004

Foreign Applications

If Required, Foreign Filing License Granted: 09/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/894,610**

Projected Publication Date: 01/18/2007

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Low cost portable computing device

Preliminary Class

353

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of

Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Nov-06

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

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NOV 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Paradiso et al.	:	DECISION ON PETITION
Application No. 10/894,611	:	
Filed: 20 July, 2004	:	
Attorney Docket No. D-34	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 15 September, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 22 May, 2006, for failure to timely file a response to the final Office action mailed on 21 February, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in

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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)).

accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition lacks the reply required by 37 CFR 1.137(b)(1). Specifically, petitioners' reply did not include sufficient funds to cover all fees due. As such, a fee deficiency of $130.00 exists and must be paid with any 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 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 concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

COPY MAILED

MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Paradiso et al.	:	DECISION ON PETITION
Application No. 10/894,611	:	
Filed: 20 July, 2004	:	
Attorney Docket No. D-34	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 8 December, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 22 May, 2006, for failure to timely file a response to the final Office action mailed on 21 February, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment. The petition filed on 15 September, 2006, was dismissed on 22 November, 2006.

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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)).

Receipt of the Notice of Appeal and Appeal Brief is acknowledged.

It is noted that petitioner submitted a duplicate petition fee with the present petition. The balance due for the Notice of Appeal fee will be deducted from the overpayment. The balance will be credited to counsel's credit card.

The application is being forwarded to Technology Center 3742 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 25 2010

OFFICE OF PETITIONS

CHARLES G. CALL
361 WILD COFFEE LANE
MARCO ISLAND FL 34145

In re Application of	:	
Joseph A. PARADISO, et al	:	
Application No. 10/894,611	:	DECISION ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. D-34	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, 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 December 13, 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 March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3742 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/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
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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JUN 28 2007
OFFICE OF PETITIONS

In re Application of	:	
SHEPPARD, et al.	:	
Application No. 10/894,643	:	DECISION GRANTING PETITION
Filed: July 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **02307O-080220US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 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 June 20, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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SEP 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Barrus et al.	:	
Application No. 10/894,653	:	DECISION ON PETITION
Filed: July 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 20412-08856	:	

This is a decision on the petition, filed July 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 31, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 2176 for examination in due course.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/894,653	07/19/2004	John Barrus	20412-08856

CONFIRMATION NO. 6346

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 09/20/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/28/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of
Rodolpho Jose Cazabon et al.
Application No. 10/894,670
Filed: July 20, 2004
Attorney Docket No. AUTO/0606

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed November 15, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 20, 2004, naming Rodolpho Jose Cazabon and Jeffrey D. Yates as joint inventors but without a signed declaration. Accordingly, on September 14, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventor and the instant petition under 37 CFR 1.47(a) was filed. The petition argues that diligent efforts to locate joint inventor Yates were used.

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 efforts to have Mr. Yates join in the filing of the instant application, including mail to the last known address, emails and telephone calls were used, but that Mr. Yates has not availed himself and thus by his actions refuses to cooperate with the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 2671 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEFFREY D. YATES
23 CORTE MORADA
GREENBRAE, CA 94904

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JAN 05 2005

OFFICE OF PETITIONS

In re Application of
Rodolpho Jose Cazabon et al.
Application No. 10/894,670
Filed: July 20, 2004
For: VERTEX INTERACTION

Dear Mr. Yates:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned 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
Senior Petitions Attorney
Office of Petitions

cc:
MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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

JONES DAY
222 East 41st Street
New York, NY 10017-6702

Mail Date: 04/21/2010

Applicant	: Mark S. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7655508	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.: 5/10/2010

DATE : 04/16/10

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction for Appl. No.: 10894689 Patent No.: 7477655

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:

/Kwang B. Yao/
SPE

2473
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 5/10/2010

DATE : 04/16/10

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction for Appl. No.: 10894689 Patent No.: 7477655

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: _____

/Kwang B. Yao/
SPE

2473
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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NOV 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Carlton & Mark	:	
Application No. 10/894,715	:	ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. PCC-PT001.1	:	
For: COMPACT HEAT EXCHANGER WITH HIGH VOLUMETRIC AIR-FLOW		

This is a decision on the petition under 37 CFR 1.47(a), filed November 15, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 20, 2004 without an executed declaration. On September 14, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath/declaration and a surcharge for its late filing. In response, on November 15, 2004, petitioner filed a declaration executed by 1 of 2 joint inventors, a surcharge, and a Rule 47 petition. The petition is accompanied by a declaration by Joseph C. Cahill, Corporate Secretary and Vice President of Administration and Finances of PowerCold Corporation, a party in interest, that states that there is such conflict and animosity between Henry Mark, the non-signing inventor, and PowerCold Corporation that it is not likely that Mr. Mark would sign the declaration for this application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and

(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that the inventor has constructively refused to sign the declaration. Applicant has not *tried* to present the application papers to Mr. Marks. According to Mr. Cahill, an "Employee Resignation Agreement" was reached and executed by Mr. Mark on August 18, 2004. Mr. Cahill states that Mr. Mark is compelled to execute a declaration for patent application for the above-identified application by the terms of the agreement. Petitioner should afford Mr. Mark an opportunity to review the application papers and sign the declaration for patent application.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

When petitioner can show that Mr. Marks was mailed and 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 satisfied this requirement.

The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding finances, petitioner is informed that a $130.00 petition fee as specified in 37 CFR § 1.17(h) for filing a petition under 37 CFR 1.47(a) is owed. Pursuant to petitioner's authorization, deposit account no. 22-0493 will be charged the required $130.00 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
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET, SUITE 700
SALT LAKE CITY UT 84101

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Doering and Harmon	:
Application No. 10/894,731	: DECISION ACCORDING STATUS
Filed: July 20, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 2688.EPSI.NP	:
For: APPARATUS FOR AXIAL ADJUSTMENT	:
OF CHOPPER PUMP CLEARANCES	:

This is in response to the petition under 37 CFR 1.47(a), filed November 15, 2004 (certificate of mailing November 12, 2004).

The petition is granted.

Petitioner has shown that Brandon R. Doering, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Julie K. Morriss establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but he refused in writing to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 3745.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARL J. COOPER
73 SHORELINE CIRCLE
INCLINE VILLAGE NV 89451

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Cooper	:	DECISION ON APPLICATION
Application No. 10/894,746	:	FOR
Filed: July 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
JCC-400DIV	:	

This is a decision on the "Request for reinstatement of all or part of the term adjustment reduction," filed on September 23, 2009. Applicant requests that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from six hundred twenty-nine (629) days to at least seven hundred twenty (720) days, or optimally eight hundred thirty-four (834) days. The application for patent term adjustment will be treated under 37 CFR § 1.705(b).

The application for patent term adjustment is **DISMISSED.**

On September 18, 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 (PTA) to date is 629 days. The instant application for patent term adjustment was timely filed.[1]

Applicant states that the patent is not subject to a terminal disclaimer.

[1] PALM records show that the issue fee payment was received on September 25, 2009.

Applicant disputes the reduction of 205 days associated with filing a complete reply to the non-final Office action of March 2, 2007.

On March 2, 2007, the Office mailed a non-final Office action. On March 12, 2007, applicant filed a response to the March 2, 2007 non-final Office action. In an Office letter mailed September 26, 2007, the examiner states that the March 12, 2007 response was *bona fide*. However, it was not fully responsive because "applicant fails to address the Office rejections."

A responsive amendment was filed on October 3, 2007.

Applicant requests reinstatement of all or part of the reduction for two reasons.

First, applicant argues that the Office erred in calculating the reduction. Applicant contends that 37 CFR 1.704(b) applies, rather than 37 CFR 1.704(c)(7). Second, applicant asserts that the March 12, 2007 response was a reasonable response to conclude processing or examination.

37 CFR 1.704(b) provides that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude prosecution 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.

37 CFR 1.704(c)(7) establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to 37 CFR 1.135(c) is parenthetical because

37 CFR 1.704(c)(7) is not limited to Office actions under 37 CFR 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 37 CFR 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 37 CFR 1.821 et seq..

On March 12, 2007, applicant filed a reply to the non-final Office action mailed March 2, 2007. This reply after non-final Office action was filed within the three-month period provided for in section 1.704(b). Accordingly, no applicant delay was entered pursuant to 37 CFR 1.704(b). However, by Letter mailed September 26, 2007, pursuant to 35 CFR 135(c), applicant was advised that the March 12, 2007 reply was not fully responsive. The response correcting the omission was not filed until October 3, 2007. The 205 day period is calculated beginning on the day after the date the initial reply was filed, March 13, 2007, and ending on the date that a complete reply was filed, October 3, 2007. Thus, entry of a period of reduction of 205 days pursuant to 37 CFR 1.704(c)(7) was warranted.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains six hundred twenty-nine (629) days (834 (529+177+128) days of Office delay, reduced by 205 days of Applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Roger Kilian-Kehr	: DECISION ON REQUEST FOR
Patent Number	: 7603466	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Levenfeld Pearlstein LLC (Tetra Pak)
2 North LaSalle Street
Suite 1300
Chicago, IL 60602

Mail Date: 04/20/2010

Applicant	: Terry B. Berglin	: DECISION ON REQUEST FOR
Patent Number	: 7571846	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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11199 69TH STREET NORTH
LARGO, FL 33773

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NOV 10 2004

OFFICE OF PETITIONS

In re Application of :
John D. Young and Alberto Hoyo :
Application No. 10/894,769 : DECISION REFUSING STATUS
Filed: July 20, 2004 : UNDER 37 CFR 1.47(a)
For: FUNGICIDAL GEL AND METHOD FOR :
CONTROLLING NAIL FUNGI

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 8, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 20, 2004 without an executed oath or declaration and naming John D. Young and Alberto Hoyo as joint inventors.

Accordingly, on September 14, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on September 8, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (4), as set forth above.

As to item (1), applicant has not demonstrated that the non-signing inventor has been presented with the a copy of the application papers (specification, claims and drawings) and the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

As to item (4), a statement of the inventor's last known address is missing and is required. See MPEP 409.03(e).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of
John D. Young and Alberto Hoyo
Application No. 10/894,769
Filed: July 20, 2004
For: FUNGICIDAL GEL AND METHOD FOR CONTROLLING NAIL FUNGI

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed November 22, 2004. The petition was recently forwarded to this office for review.

The petition is **granted**.

Petitioner has shown that non-signing inventor Alberto Hoyo has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ALBERTO HOYO
7440 S.W. 142nd AVENUE
MIAMI, FL 33183

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of
John D. Young and Alberto Hoyo
Application No. 10/894,769
Filed: July 20, 2004
For: FUNGICIDAL GEL AND METHOD FOR CONTROLLING NAIL FUNGI

Dear ALBERTO HOYO:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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LARGO, FL 33773

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SUITE 1500
HOUSTON, TX 77056

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of	:
Mark J. Young	:
Application No. 10/894,775	: DECISION GRANTING PETITION
Filed: July 20, 2004	: UNDER 37 CFR 1.47(b)
For: ADAPTIVE MANIPULATORS	:
	:

This is in response to the "Petition Under 37 CFR 1.47(b)," filed December 2, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Stephanie Winner establishes that the inventor was mailed the application papers, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Autodesk, Inc. (Autodesk) has a proprietary interest in the above-identified application with the copy of the "Employment Agreement on Intellectual Property," showing that the inventor had an obligation to assign any patent rights to Autodesk. The petition fee will be charged to petitioner's deposit account No. 20-0782. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Please note, petitioner's deposit account No. 20-0782, will be charged the required $130 petition fee.

The application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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MCCARTER & ENGLISH , LLP STAMFORD OFFICE
FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Frick et al.	:	
Application No.: 10/894797	:	DECISION ON
Filing or 371(c) Date: 07/20/2004	:	PETITION
Attorney Docket Number: 97634.00182	:	

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Applicant's Failure to Receive Notice of Allowance and Fee(s) Due," filed October 5, 2007. The petition is properly treated under 37 CFR 1.181 (no fee).

This Petition is **dismissed**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and issue Fee Due ("Notice"), mailed April 13, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned July 14, 2007.

Applicant files the present petition to withdraw the holding of abandonment, and in support of this request asserts that the Notice was not received.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to

> establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of the petition reveals that the correspondence address in the petition differs from the correspondence address of record at the time of mailing of the Notice. Office records indicate that the correspondence address was changed on August 6, 2007. As such, it is unclear whether Applicant is in a position to attest on a personal knowledge basis as to whether the Notice was received at the correspondence address of record on April 13, 2007. Also, the copy of the docket records filed with the petition do not indicate that the Notice of Abandonment, mailed August 7, 2007, was received. This would indicate that mail sent to Applicant's prior correspondence address of record is not being received at the new correspondence address of record. As such, there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

Conclusion

Applicant's arguments and evidence have been considered, however, the arguments/evidence fail to demonstrate that the Notice was not received at the correspondence address of record at the time the Notice was mailed.

Accordingly, the petition to withdraw the holding of abandonment is dismissed.

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
Attorney
Office of Petitions

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FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

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OFFICE OF PETITIONS

In re Application of	:	
Frick et al.	:	
Application No.: 10/894797	:	DECISION ON
Filing or 371(c) Date: 07/20/2004	:	PETITION
Attorney Docket Number: 97634.00182	:	

This is a decision in response to the Renewed Petition to Withdraw Holding of Abandonment Based on Applicant's Failure to Receive Notice of Allowance and Fee(s) Due," filed December 6, 2007. The petition is properly treated under 37 CFR 1.181 (no fee).

This Petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and issue Fee Due ("Notice"), mailed April 13, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned July 14, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

Receipt of the issue and publication fees are hereby acknowledged.

The application will be referred to Publishing Division for processing into a patent in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy.
Suite 101
Tempe AZ 85281

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of
Goettl
Application No. 10/894,803
Filed: July 20, 2004
Attorney Docket No. 1144.034

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is DISMISSED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (3). The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The statement appearing in the petition varies from the required language in that it states "[t]he delay in correcting the benefit claim within the timeframe set forth in 37 CFR 1.78(a)(2) was unintentional, as indicated by the following evidence and discussion." Correction is required upon renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

This application is being forwarded to Technology Center Art Unit 3751.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy.
Suite 101
Tempe AZ 85281

COPY MAILED

SEP 26 2008

OFFICE OF PETITIONS

In re Application of
Goettl
Application No. 10/894,803
Filed: July 20, 2004
Attorney Docket No. 1144.034

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3751 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

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
10/894,803	07/20/2004	3751	822	1144.034	59	5

CONFIRMATION NO. 6429

CORRECTED FILING RECEIPT

54434
BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy.
Suite 101
Tempe, AZ 85281

OC000000028314054

Date Mailed: 09/26/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John M. Goettl, Phoenix, AZ;

Power of Attorney: The patent practitioners associated with Customer Number 54434

Domestic Priority data as claimed by applicant

This application is a CIP of 10/144,899 05/14/2002 PAT 6,810,537

Foreign Applications

If Required, Foreign Filing License Granted: 09/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/894,803**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Swimming pool drain

Preliminary Class

004

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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Richard Alan Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7658874	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,807	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **990** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20090910

DATE : September 10, 2009

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Rexford Barnie **Art Unit** 2819

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,295,042
DATED: November 13, 2007
INVENTOR(S): Shingo Hatanaka and Christopher W. Mangelsdorf

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

This is a decision on the petition filed December 12, 2008 to correct inventorship under 37 CFR 1.324. The petition is granted. The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bracewell & Patterson, L.L.P.
P.O. Box 61389
Houston, TX 77028-1389

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Holly C. MacDonald-Korth et al.	:	
Application No. 10/894,813	:	DECISION ON PETITION
Filed: July 20, 2004	:	TO WITHDRAW
Attorney Docket No. 064741.000102	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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 Jeffrey S. Whittle 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 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 address of the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted if an assignee has interest in this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, UT 84091

cc: Holly C. MacDonald-Korth
6322 S. 3000 East, Ste. 100
Salt Lake City, UT 84121

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/894,813	07/20/2004	Holly C. MacDonald-Korth	064741.000102

CONFIRMATION NO. 6276

BRACEWELL & PATTERSON, L.L.P
P.O. BOX 61389
HOUSTON, TX 77028-1389

POWER OF ATTORNEY NOTICE

OC000000034503208

Date Mailed: 02/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2009.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Duane Morris LLP (BOS)
IP Department
470 Atlantic Avenue, Suite 500
Boston, MA 02210-2243

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APR 09 2010

OFFICE OF PETITIONS

In re Patent of Wittrup et al.	:	DECISION ON REQUEST
Patent No. 7,569,215	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/894,833	:	AND NOTICE OF INTENT TO
Filing Date: July 19, 2004	:	ISSUE CERTIFICATE OF
Atty. Docket No. 01997-0326001/10392	:	CORRECTION

This is a decision on the petition filed October 5, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by five hundred thirty-eight (538) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by five hundred thirty-eight (538) days is **GRANTED to the extent indicated herein**.

The patent term adjustment on the patent included a 102-day increase for delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentees contend the patent term adjustment should have included an increase of 382 days for B Delay.

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 period of B Delay. *See* 35 U.S.C. § 154(b)(1)(B)(i). The over three-year period began on July 20, 2007, and ended on February 3, 2009, *the day before* the RCE was filed, and is 565 days.

Per 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." In other words, B Delay in this case does not include the 184 days consumed by appellate review resulting from the August 4, 2008 Notice of Appeal.

In this case, B Delay is 381 days which is 565 days reduced by 184 days of appellate review.

The Office should have increased the patent term adjustment by 381 days, not 102 days, for B Delay when issuing the patent.

In view of the prior discussion, the patent should have indicated the patent term adjustment is 537 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 patent is extended or adjusted by **five hundred thirty-seven (537)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,569,215 B2	
ISSUE DATE	:	August 4, 2009	**DRAFT**
INVENTOR(S)	:	Wittrup 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 U.S.C. 154(b) by 258 days.

Delete the phrase "by 258 days" and insert - by 537 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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Duane Morris LLP - Boston
IP Department
30 SOUTH 17TH STREET
Philadelphia, PA 19103-4196

Mail Date: 04/21/2010

Applicant	: K. Dane Wittrup	: DECISION ON REQUEST FOR
Patent Number	: 7569215	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 10/894,836	:	DECISION ON PETITION
Filed: July 20, 2004	:	
Attorney Docket No. PRD-2257USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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), (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050.00 extension of time fee submitted with the petition on April 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1646 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Robert L. King	: DECISION ON REQUEST FOR
Patent Number	: 7587708	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 06-06

Paper No: __

REJEAN DOUCET
8745 DES FORGES #A
TROIS-RIVIERES QC
G8Y 4E6 CA CANADA

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JUN 12 2006
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In re Application of	:	
Doucet	:	
Application No. 10/894,843	:	ON PETITION
Filed: 19 July, 2004	:	
Attorney Docket No. 9222-1	:	

This is a decision on a petition filed on 12 December, 2005, 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 indicates:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 10 December, 2004, with reply due absent an extension of time on or before 10 March, 2005;
- the application went abandoned by operation of law after midnight 10 March, 2005;
- the Office mailed the Notice of Abandonment on 14 July, 2005;
- Petitioner filed the instant petition (apparently in error under 37 C.F.R. §1.137(f) by using the incorrect form alleging delayed Notice of a foreign filing, when, in fact, the application went abandoned, as indicated above, due to failure to reply timely and

properly to an outstanding Office action) on 12 December, 2005, with fee, a reply in the form of an amendment, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: David Bar-Or	: DECISION ON REQUEST FOR
Patent Number	: 7632803	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/894,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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BRONCUS TECHNOLOGIES, INC. C/O
LEVINE BAGADE HAN LLP
2400 GENG ROAD
SUITE 120
PALO ALTO CA 94303

COPY MAILED
FEB 02 2010

In re Application of	:
Joel D. Cooper	:
Application Number: 10/894876	: DECISION ON PETITIONS
Filing or 371(c) Date: 07/19/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket Number: BRONNE00800	:

This is a decision on the petition, filed on October 5, 2009, which is treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment and Application Data Sheet both filed on October 5, 2009.

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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

All the above requirements having been satisfied, the late claim for benefit of priority 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 this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 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 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3761 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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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
10/894,876	07/19/2004	3761	512	BRONNE00800	20	1

CONFIRMATION NO. 6578

CORRECTED FILING RECEIPT

OC000000039846007

74059
Broncus Technologies, Inc. c/o
Levine Bagade Han LLP
2400 Geng Road
Suite 120
Palo Alto, CA 94303

Date Mailed: 02/02/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joel D. Cooper, St. Louis, MO;

Power of Attorney: The patent practitioners associated with Customer Number 40518

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/488,332 07/18/2003
and is a CIP of 09/908,177 07/18/2001 ABN
which is a CON of 09/633,651 08/07/2000 PAT 6,692,494
which claims benefit of 60/147,528 08/05/1999
and claims benefit of 60/176,141 01/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/894,876**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

DEVICES FOR MAINTAINING PATENCY OF SURGICALLY CREATED CHANNELS IN TISSUE

Preliminary Class

604

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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ALEX L. YIP
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK NY 10022

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DEC 15 2008

In re Application of	:	
Helms et al.	:	
Application No. 10/894884	:	
Filing or 371(c) Date: 07/20/2004	:	
Attorney Docket Number:	:	
61575.1039	:	ON PETITION

This is a decision in response to the "Petition to Withdraw Holding Abandonment Based on Failure to Receive Office Action," filed October 27, 2008. The petition is properly treated under 37 C.F.R. § 1.181.

This Petition is **dismissed**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 31, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on April 1, 2008.

The present petition

Applicant files the present petition and asserts that on or about November 20, 2006, Applicant transferred the present application to Gazdzinski & Associates, P.C. Thereafter, on April 14, 2007, in response to an Office action, Gazdzinski & Associates filed a Power of Attorney and Statement Under 37 CFR 3.73(b). Despite filing the Power of Attorney, a second Office action, mailed July 27, 2007, was sent to Kaye Scholer LLP (and not to Gazdzinski & Associates). Thereafter, on July 30, 2008, Gazdzinski & Associates received a telephone call from the

Examiner advising Gazdzinski & Associates that a third Office action was mailed on December 31, 2007; however, no response had been filed.

Power of Attorney

A review of the Power of Attorney, filed on April 23, 2007, and again on September 28, 2007, reveal that Power of Attorney, executed prior to the filing of the present application, appointed practitioners Robert F. Gazdzinski and Vinay Sathe. A review of Office records reveals that the attorneys of record listed for the present application are Alex Yip, Robert F. Gazdzinski and Vinay Sathe.

A further review of the Power of Attorney reveals that the Power of Attorney, while including the appointment of practitioners Robert F. Gazdzinski and Vinay Sathe, also included the correspondence address of the assignee, but did not include instructions to change the correspondence address, nor did it include the correspondence address of the practitioners Robert F. Gazdzinski and Vinay Sathe.

Office records

A review of Office records reveals that no Change of Correspondence Address has been filed in the present application. Office records also reveal that no Revocation of Power of Attorney revoking attorney Alex Yip has been filed in this application. As such, this Office continued to send correspondence to the address identified in the executed oath/declaration filed October 28, 2004.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> 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.<u>The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail</u> (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

<u>Change of correspondence address</u>

The MPEP 601.03 provides:

> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

<u>Analysis</u>

In this instance, no change of correspondence address has been filed in the application. The assignee has only appointed additional attorneys to prosecute the application. The filing of papers in the application that included a Power of Attorney was insufficient to effect a change of correspondence address. As such, there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

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. The MPEP 601.03 provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR1.33(a)(2).

A 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.

Conclusion

The petition is dismissed. Applicant should file a request for reconsideration of petition and demonstrate that a proper change of correspondence address was filed in the present application.

Alternatively, Applicant may file a petition to revive the application. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: GADZDZINSKI & ASSOCIATES
11440 WEST BERNARDO COURT
SUITE 375
SAN DIEGO, CA 92127

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GAZDZINSKI & ASSOCIATES
11440 WEST BERNARDO COURT, SUITE 375
SAN DIEGO CA 92127

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FEB 2 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Helms et al.	:	
Application No. 10/894884	:	
Filing or 371(c) Date: 07/20/2004	:	
Attorney Docket Number:	:	
61575.1039	:	ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed January 23, 2009. Petitioner requests alternative treatment of the petition under 37 CFR 1.137(b), for Revival of an Application for Patent Abandoned Unintentionally.

This Petition Under 37 C.F.R. § 1.137(a) is hereby **dismissed**.

This Petition Under 37 C.F.R. § 1.137(b) is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 31, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on April 1, 2008.

The present petition under 37 CFR 1.137(a)

Applicant files the present petition and asserts that on or about November 20, 2006, Applicant transferred the present application to Gazdzinski & Associates, P.C. Thereafter, on April 14, 2007, in response to an Office action, Gazdzinski & Associates filed a Power of Attorney and Statement Under 37 CFR 3.73(b). Despite filing the Power of Attorney, a second Office action, mailed July 27, 2007, was sent to Kaye Scholer LLP (and not to Gazdzinski & Associates). Thereafter, on July 30, 2008, Gazdzinski & Associates received a telephone call from the Examiner advising Gazdzinski & Associates that a third Office action was mailed on December 31, 2007; however, no response had been filed.

Power of Attorney

A review of the Power of Attorney, filed on April 23, 2007, and again on September 28, 2007, reveal that Power of Attorney, executed prior to the filing of the present application, appointed practitioners Robert F. Gazdzinski and Vinay Sathe. A review of Office records reveals that the attorneys of record listed for the present application are Alex Yip, Robert F. Gazdzinski and Vinay Sathe.

A further review of the Power of Attorney reveals that the Power of Attorney, while including the appointment of practitioners Robert F. Gazdzinski and Vinay Sathe, also included the correspondence address of the assignee, but did not include instructions to change the correspondence address, nor did it include the correspondence address of the practitioners Robert F. Gazdzinski and Vinay Sathe.

Office records

A review of Office records reveals that no Change of Correspondence Address has been filed in the present application. Office records also reveal that no Revocation of Power of Attorney revoking attorney Alex Yip has been filed in this application. As such, this Office continued to send correspondence to the address identified in the executed oath/declaration filed October 28, 2004.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he 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).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Change of correspondence address

The MPEP 601.03 provides:

> The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

Further to this, the MPEP 711.03(c)IIC2, states

> ...where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made; (Emphasis supplied).
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Analysis

In this instance, no change of correspondence address has been filed in the application. The assignee has only appointed additional attorneys to prosecute the application. The filing of papers in the application that included a Power of Attorney was insufficient to effect a change of correspondence address. Applicant has failed to adequately demonstrate that the delay in filing a proper change of correspondence address was unavoidable.

Conclusion

The petition is dismissed.

Petition under 37 CFR 1.137(b)

Applicant files the present petition, and an Appeal Brief in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2437 for processing of the reply to the Office action filed with the petition, in the normal course of business.

The fee for the petition under 37 CFR 1.137(b) has been charged to Petitioner's deposit account as authorized in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Fracis J. Martin et al.	:	
Application No. 10/894,944	:	DECISION ON PETITION
Filed: July 19, 2004	:	TO WITHDRAW
Attorney Docket No. 28217/04019	:	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 10, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joan N. Drew on behalf of all attorneys of record who are associated with Customer Number 24024.

All attorneys/agents associated with the Customer Number 24024 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 30, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Francis J. Martin
160 San Fernando Way
San Francisco, CA 94127

cc: McNees, Wallace & Nurick LLC
21 E. State Street
17th Floor
Columbus, OH 43215-4228

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
Lixiao Wang, et al.	:	
Application No. 10/894,946	:	DECISION ON PETITION
Filed: July 20, 2004	:	TO WITHDRAW
Attorney Docket No. 760-271 DIV/RCE	:	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 17, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request was signed by Anna-Lisa Gallo on behalf of all attorneys of record who are associated with customer No. 23869. All attorneys/agents associated with the Customer Number 23869 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 pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: BOSTON SCIENTIFIC SCIMED, INC
ONE SCIMED PLACE
MAPLE GROVE, MN 55311-1566

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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
10/894,946	07/20/2004	Lixiao Wang	760-271 DIV/RCE

CONFIRMATION NO. 7011

POWER OF ATTORNEY NOTICE

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

OC000000035417797

Date Mailed: 04/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of

PARMER, Kari et al.
Application No. 10/894,958
Filed: July 20, 2004
Attorney Docket No. **723.018US2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 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 on behalf of all attorneys of record who are associated with customer No. 21186. 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KARI PARMER**
3199 BRENTWOOD LANE
MELBOURNE, FL 32934

cc: **RICHARD W. WARNER**
HARNESS, DICKEY & PIERCE, P.L.C.
5445 CORPORATE DRIVE
TROY, MI 48098

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/894,958	07/20/2004	Kari Parmer	723.018US2

CONFIRMATION NO. 6793

OC000000025402662

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 08/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

- 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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PHILADELPHIA, PA 19103-2212

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Riccardo E. Barbone et al :
Application No. 10/894,974 : NOTICE
Effective Date: July 20, 2004 :
Attorney Docket No. G2005/20001 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 05/05/2010

Applicant	: Frank R. Dropps	: DECISION ON REQUEST FOR
Patent Number	: 7646767	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/894,978	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **978** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: Mimatsu, et al.
Application No. 10/894,983
Filed: 19 July 2004
For: MANAGEMENT METHOD AND A MANAGEMENT SYSTEM FOR VOLUME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 3 March 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 6/6/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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