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NEEDLE & ROSENBERG PC
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Vaughan, et al.	:	
Application No. 10/899,884	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 03269.0020U3	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed February 10, 2006.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed December 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on March 2, 2005. A Notice of Abandonment was mailed on June 14, 2005.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3765 for consideration of the Amendment filed February 10, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Stewart, et al.	:	
Application No. 10/899,904	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 154367.253.44.12	:	

This is a decision on the "REQUEST FOR CHANGE OF INVENTOR NAME UNDER 37 C.F.R. §1.182", filed November 2, 2004.

Applicants have filed the petition to change the name of inventor Stephen G. Hosking to Lucy G. Hosking. Applicants have paid the petition fee and have included a certified copy of a court order for the name change.

Accordingly, the 37 CFR 1.182 petition is **GRANTED**.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

Mail Date: 04/20/2010

Applicant	: Glenn Kanner	: DECISION ON REQUEST FOR
Patent Number	: 7597706	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/899,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **659** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ERIC L. MASCHOFF
WORKMAN, NYDEGGER & SEELEY
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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APR 06 2005

OFFICE OF PETITIONS

In re Application of	:	
James Stewart et al	:	
Application No. 10/899,941	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No.	:	
15436.253.44.1.1	:	

This is a decision on the petition under 37 CFR 1.182, filed November 2, 2004, to change the name of one of the inventors.

The petition is **Granted**.

A corrected Filing Receipt with the desired name change accompanies this decision on petition.

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

This application is being referred to Technology Center AU 2633.

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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RAY R. REGAN
P.O. BOX 1442
CORRALES, NM 87048

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of
John E. Liebendorfer et al
Application No. 10/899,951
Filed: July 26, 2004
Attorney Docket No. 2164.029CIP

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)(i), filed November 2, 2005, to make the above-identified application special based on the invention materially enhancing the quality of the environment, as set forth in M.P.E.P. § 708.02, Sections V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Since the petition was not signed, the Office is unable to review the petition on its merits. The petition thus dismissed.

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

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

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

By FAX: (571) 273-8300

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

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

This matter is being referred to Technology Center Art Unit 3635 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Owen L. Lamb
P.O. Box 386
Prescott, AZ 86302-0386

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SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin Hanrahan et al.	:	
Application No. 10/899,983	:	DECISION ON PETITION
Filed: July 27, 2004	:	TO WITHDRAW
Attorney Docket No. D-1589	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

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

A review of the file record indicates that the power of attorney to Owen L. Lamb has been revoked by the assignee of the patent application on January 25, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Albin H. Gess
Snell & Wilmer LLP
600 Anton Boulevard
Suite 1400
Costa Mesa, CA 92626

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/899,983	07/27/2004	Kevin Hanrahan	D-1589

CONFIRMATION NO. 6519

OC000000020253724

OC000000020253724

21611
SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Date Mailed: 08/31/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/899,983	07/27/2004	Kevin Hanrahan	D-1589

CONFIRMATION NO. 6519

OC000000020253707

OC000000020253707

49147
OWEN L. LAMB
P.O. BOX 386
PRESCOTT, AZ 86302-0386

Date Mailed: 08/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2006.

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

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-23-09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/899987 Patent No.: 7416807

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

- [x] **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** 1795

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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
10/899,989	07/26/2004	2853	1586	200312381-1	6	51	6

CONFIRMATION NO. 5753

CORRECTED FILING RECEIPT

OC000000014338990

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

Date Mailed: 11/12/2004

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)

Jason M. Quintana, Brush Praire, WA;
James Chen, Vancouver, WA;

Power of Attorney: The patent practitioners associated with Customer Number **022879**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 09/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/899,989

Projected Publication Date: 01/26/2006

Non-Publication Request: No

Early Publication Request: No

Title

System and a method for variable velocity printing

Preliminary Class

347

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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BRAKE HUGHES BELLERMANN LLP
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS, MN 55402

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In re Application of	:	
Anna Lynn Patterson	:	
Application No. 10/900,012	:	DECISION ON PETITION
Filed: July 26, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 24207-09068	:	

This is a decision on the petition, filed August 26, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 22, 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 accompanies this decision on petition.

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

This application is being referred to Technology Center AU 2163 for further processing.

Irvin Dingle
Petition 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
10/900,012	07/26/2004	Anna Lynn Patterson	24207-09068

CONFIRMATION NO. 5621

79318
BRAKE HUGHES BELLERMANN LLP
c/o Intellevate
PO Box 52050
Minneapolis, MN 55402

NONPUBLICATION RESCISSION LETTER

OC000000031843728

Date Mailed: 08/29/2008

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 12/11/2008.

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".

/idingle/

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

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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
10/900,012	07/26/2004	Anna Lynn Patterson	24207-09068

CONFIRMATION NO. 5621

POA ACCEPTANCE LETTER

79318
BRAKE HUGHES BELLERMANN LLP
c/o Intellevate
PO Box 52050
Minneapolis, MN 55402

OC000000031843625

Date Mailed: 08/29/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,012	07/26/2004	Anna Lynn Patterson	24207-09068

CONFIRMATION NO. 5621

POWER OF ATTORNEY NOTICE

62296
GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

OC000000031843590

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

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

/idingle/

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

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PILLSBURY WINTHROP SHAW PITTMAN LLP
2475 HANOVER STREET
PALO ALTO CA 94304-1114

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of Sparer, et al. Application No. 10/900,013 Filed: July 26, 2004 Attorney Docket No. 067951-0310323 For: MOBILE MEMORY DEVICE WITH INTEGRATED APPLICATIONS AND ONLINE SERVICES	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed May 6, 2005.

The petition is dismissed.

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

The above-identified application was filed on July 26, 2004 without an executed oath or declaration. Accordingly, on October 6, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, petitioners filed request for a 5 month extension of time and required fee, a declaration executed by three of six joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on May 6, 2005. Attorney James E. Eakin signed the petition. Attorney Eakin sets forth the last known addresses of non-signing inventors Sparer, Fried, and Johnson and states that the three non-signing inventors have refused to sign the declaration for patent application. The exhibits to the petition show that the complete application, a declaration, and an assignment was mailed to each inventor's respective last known address. A person with the last name of Johnson signed for Mr. Johnson. A person with the last name of Perkins signed for Sparer and Fried.

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

Applicants lack items (1) and (2) set forth above.

As to item (1), before a decision is made on this issue, additional information is requested. Paragraph 8 of the petition states that additional copies of the application, declaration, and assignment were mailed by certified letter dated July 9, 2004 to Sparer and Fried at addresses listed on a July 8, 2004 faxed letter. The Office would like a copy of the July 8, 2004 faxed letters listing their respective addresses and evidence on whether or not the mailings were successful.

Sparer and Fried must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. When petitioners can show that Sparer and Fried was successfully mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioners will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(a). The declaration does not contain all required information for Mr. Alpert. His post office address is missing.

An oath or declaration in compliance with 37 CFR 1.63 and1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Alpert can correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

Regarding finances, the current fee for filing a petition under 37 CFR 1.47(a) is $200.00, not $130.00 as petitioners specified. Accordingly, on May 11, 2005, petitioners' deposit account was charged $200.00.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of Floyd et al. Application No. 10/900,015 Filed:07/26/07 Attorney Docket No. 39218-0020	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed October 1, 2004, which set a two-month extendable period to reply. The above-identified application became abandoned on December 2, 2004. On June 10, 2005, the Office mailed a Notice of Abandonment.

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

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2.5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 2, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and 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). 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 all persons 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 (E.D. Mich. 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) is clear, unambiguous, and 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 2.5 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 (E.D. Mich. 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 all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

Lastly, the person signing the petition requests a change of correspondence address to the address associated with Customer Number 23623. However, there is no indication in the record 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, he must submit the appropriate power of attorney documents. The Office is mailing a courtesy copy of this decision to the person signing the petition; however, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Any renewed petition may be addressed as follows:

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

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

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: AMIN, TUROCY & CALVIN, LLP
1900 E 9TH ST 24TH FLOOR
NATIONAL CITY CTR
CLEVELAND, OH 44114

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Floyd et al.	:	
Application No. 10/900,015	:	DECISION ON PETITION
Filed:07/26/07	:	
Attorney Docket No. 39218-0020	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008 (certificate of mailing dated March 27, 2008), to revive the above-identified application. Petitioners submitted an extension of time within the fourth month. Accordingly, the petition is filed timely.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed October 1, 2004, which set a two-month extendable period to reply. The above-identified application became abandoned on December 2, 2004. On June 10, 2005, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **GRANTED.**

The record indicates that petitioners did not file an appropriate request to change the correspondence address or a power of attorney. Once again the Office notes that if the person signing the petition desires to receive future correspondence regarding this application, he must submit the appropriate power of attorney document. The Office is mailing a courtesy copy of this decision to the person signing the petition; however, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being referred to the Office of Patent Application Processing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: AMIN, TUROCY & CALVIN, LLP
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CLEVELAND, OH 44114

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Paper No.

BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
PO Box 52050
Minneapolis MN 55402

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JUL 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Anna Lynn Patterson	:	
Application No. 10/900,021	:	ON APPLICATION FOR
Filed: July 26, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0058-011001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed March 6, 2009. Applicant requests that the patent term be adjusted by a number of additional days to account for the Three Years delay under 35 U.S.C. § 154(b)(1)(B). Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

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

[1] Applicant does not acknowledge that a request for continued examination (RCE) was first filed in this application on September 24, 2008. Applicant is reminded that the filing of an RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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

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

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

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

---

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
PO Box 52050
Minneapolis MN 55402

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In re Patent No. 7,580,921	:	DECISION ON REQUEST
Patterson	:	FOR
Issue Date: August 25, 2009	:	RECONSIDERATION OF
Application No. 10/900,021	:	PATENT TERM ADJUSTMENT
Filed: July 26, 2004	:	and
Atty Docket No. 0058-011001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-eight (848) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred forty-eight (848) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred forty-eight (848)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,580,921

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Patterson

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 423 days

Delete the phrase "by 423 days" and insert – by 848 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

DIAMOND LAW OFFICE LLC
1605 JOHN STREET, SUITE 102
FORT LEE, NJ 07024

In re Application of
Henry B. Abajian, et al.
Application No. 10/900,026
Filed: July 27, 2004
Attorney Docket No. TGX-Pep5

ON PETITION

This is a decision on the petition, filed June 6, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed March 28, 2005, which set a period for reply of two-months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On May 8, 2006, a Notice of Abandonment was mailed.

In response, on June 6, 2006, the present petition was filed, including a request that the sequence listing of parent Application No. 10/122,246 be used for the present application. Petitioners' request complies with the requirements of 37 CFR 1.821(e). See also MPEP 2422.05. Therefore, the petition is found to comply with the requirements of the 37 CFR 1.137(b).

The application is being referred to the Office of Initial Patent Examination (OIIPE) for further consideration of the response filed June 6, 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

Conferee: David Buccioni

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 20 2007
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OFFICE OF PETITIONS

DIAMOND LAW OFFICE LLC
1605 JOHN STREET, SUITE 102
FORT LEE, NJ 07024

In re Application of
Henry B. Abajian, et al.
Application No. 10/900,026
Filed: July 27, 2004
Attorney Docket No. TGX-Pep5

ON PETITION

This is a decision on the petition, filed June 6, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed March 28, 2005, which set a period for reply of two-months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On May 8, 2006, a Notice of Abandonment was mailed.

In response, on June 6, 2006, the present petition was filed, including a request that the sequence listing of parent Application No. 10/122,246 be used for the present application. Petitioners' request complies with the requirements of 37 CFR 1.821(e). See also MPEP 2422.05. Therefore, the petition is found to comply with the requirements of the 37 CFR 1.137(b).

The application is being referred to the Office of Initial Patent Examination (OIIPE) for further consideration of the response filed June 6, 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

Conferee: David Bucci

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Wraith et al.	:	
Application No. 10/900,032	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 1433.005US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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BRAKE HUGHES BELLERMANN LLP
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS, MN 55402

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SEP 02 2008

In re Application of	:	
Anna Lynn Patterson	:	
Application No. 10/900,039	:	DECISION ON PETITION
Filed: July 26, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0058-013001	:	

This is a decision on the petition, filed August 26, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 22, 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 accompanies this decision on petition.

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

This application is being referred to Technology Center AU 2163 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,039	07/26/2004	Anna Lynn Patterson	0058-013001

CONFIRMATION NO. 4429

79318
BRAKE HUGHES BELLERMANN LLP
c/o Intellevate
PO Box 52050
Minneapolis, MN 55402

NONPUBLICATION RESCISSION LETTER

OC000000031843113

Date Mailed: 08/29/2008

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 12/11/2008.

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".

/idingle/

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

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MINNEAPOLIS MN 55402

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MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,580,929
Issue Date: August 25, 2009
Application No. 10/900,039
Filed: July 26, 2004
Attorney Docket No.
0058-013001/GP-298-00-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", 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 three hundred sixty-five (365) days to four hundred ninety-eight (498) 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 four hundred ninety-seven **(497)** 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. 7,580,929, with a revised Patent Term Adjustment of 365 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 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 view thereof, the patent term adjustment in the above-identified patent is being reconsidered and corrected as follows:

- This application was filed on July 26, 2004. A request for continued examination (RCE) was filed in this application on December 6, 2007. (The filing of a 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)).
- As of the filing date of the RCE, the "A" delay was 490 days. No days of the "A" delay occurred during the period after July 26, 2007 to December 6, 2007. Thus, no days of "A" delay overlap with any "B" delay.
- There were no periods of Office delay accrued subsequent to the filing of the RCE. Thus, the total "A" delay is 490 days.
- The "B" delay is 132 days for the period beginning on July 27, 2007 and ending on December 6, 2007.
- The sum of the "A" delay and the "B" delay is 622 days.
- Applicant delay is calculated as 125 days.

In view thereof, the patent should have issued with a revised patent term adjustment of 497 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 four hundred ninety-seven **(497)** days.

---

[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.

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 : 7,580,929 B2

DATED : August 25, 2009

INVENTOR(S) : Anna Lynn Patterson

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 (365) days

Delete the phrase "by 365 days" and insert – by 497 days--

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c/o CPA Global
PO Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Anna Lynn Patterson	: DECISION ON REQUEST FOR
Patent Number	: 7599914	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **631** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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c/o Intellevate
PO Box 52050
Minneapolis MN 55402

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SEP 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Anna Lynn Patterson	:	
Application No. 10/900,055	:	DECISION GRANTING PETITION
Filed: July 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0058-012001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 26, 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 4, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2163 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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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MINNEAPOLIS, MN 55402-1498

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OFFICE OF PETITIONS

In re Application of
James Plunkett et al
Application No. 10/900,068
Filed: July 27, 2004
Attorney Docket No. 34687/US

ON PETITION

This is a decision on the petition, filed May 6, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 7, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3782 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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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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MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,584,175
Issue Date: September 1, 2009
Application No. 10/900,075
Filed: July 26, 2004
Attorney Docket No.
0058-016001/GP-307-00-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", 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 four hundred fifty-six (456) days to four hundred seventy-eight (478) 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 five hundred seventy-one **(571)** 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 September 1, 2009, the above-identified application matured into U.S. Patent No. 7,584,175, with a revised Patent Term Adjustment of 456 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 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 view thereof, the patent term adjustment in the above-identified patent is being reconsidered and corrected as follows:

- This application was filed on July 26, 2004. The "A" delay is the period from September 26, 2005 to February 7, 2007, 499 days.
- A request for continued examination (RCE) was filed in this application on November 19, 2007. (The filing of a 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)).
- As of the filing date of the RCE, the "A" delay was 499 days. No days of the "A" delay occurred during the period after July 26, 2007 to December 6, 2007. Thus, no days of "A" delay overlap with any "B" delay.
- There were no periods of Office delay accrued subsequent to the filing of the RCE. Thus, the total "A" delay is 499 days.
- The "B" delay is 115 days for the period beginning on July 27, 2007 and ending on November 18, 2007.
- The sum of the "A" delay (499 days) and the "B" delay (115) is 614 days.
- Applicant delay is calculated as 43 days.

In view thereof, the patent should have issued with a revised patent term adjustment of 571 days and not 478 days as indicated by patentee.

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

[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.

of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred seventy-one **(571)** 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 : 7,584,175 B2

DATED : September 1, 2009

INVENTOR(S) : Anna Lynn Patterson

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 (456) days

Delete the phrase "by 456 days" and insert – by 571 days--

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OFFICE OF PETITIONS

In re Application of :
Henry **Sullivan** et al. :
Application No. 10/900,165 : ON PETITION
Filed: July 27, 2004 :
Attorney Docket No. TieTek-001:C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 09, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Non-final Office action mailed March 08, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 09, 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 is accepted as having been unintentionally delayed.

On October 9, 2007, Petitioner submitted a check in the amount of $1,390.00 for payment of a three (3) month extension of time ($510.00), the filing of a terminal disclaimer ($130.00) and a petition fee ($750.00). However, as of September 30, 2007, the small inventive entity fee required for a petition under 37 CFR 1.137(b) was $770.00. Hence, the required petition fee is deficient $20.00.

Furthermore, 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.'s Pats. 1988). Since the $510.00 extension of time fee submitted with the petition on October 9, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary. $20.00 will be deducted from this unnecessary $510.00 payment and applied to the

deficiency in the petition fee. The remaining $490.00 will be credited to Petitioner's deposit account number 13-2166.

Any questions concerning this matter may be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 1714 for appropriate action by the Examiner in the normal course of business on the reply received

for David A. Bucci
Petitions Examiner
Office of Petitions

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Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304

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OFFICE OF PETITIONS

In re Application of :

Shankar Kumar Mitra et al. :
Application No. 10/900,203 : DECISION ON PETITION
Filed: July 28, 2004 : TO WITHDRAW
Attorney Docket No. LEXO0011U-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 July 6, 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 Richard Neifeld on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shankar Kumar Mitra**
The Himalaya Drug Company
Makali, Bangalore
Kamataka, 562 123
India

cc: **Darby & Darby P.C.**
1500 K Street, N.W., Suite 250
Washington, D.C. 20005-1714

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,203	07/28/2004	Shankar Kumar Mitra	LEXO0011U-US

CONFIRMATION NO. 7311

POWER OF ATTORNEY NOTICE

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

OC000000026793425

Date Mailed: 11/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2007.

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

/tswilliams/

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

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NOV 30 2004

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1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of	:
Mark K. Vineyard et al	:
Serial No.: 10/900,209	: PETITION TO MAKE SPECIAL
Filed: July 25, 2004	:
Attorney Docket No.: 006352.00002	:

This is in response to the petition filed August 11, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based environmental quality.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to a process for production of peracetic acid. Some dependent claims are directed to use of peracetic acid in treatment of wastewater effluent streams. It is believed that use of peroxides, including peracetic acid, for treatment of contaminated wastewaters is known. The combining of a process for making peracetic acid with a known use thereof does not appear to make a significant contribution to maintenance of basic life sustaining elements, such as water.

Applicant's petition is **DENIED**.

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

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

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JAN - 4 2005

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of	:
Mark K. Vineyard et al	:
Serial No.: 10/900,209	: PETITION TO MAKE SPECIAL
Filed: July 25, 2004	:
Attorney Docket No.: 006352.00002	:

This is in response to the renewed petition filed December 10, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on environmental quality.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

As previously stated, applicant's claims are directed to a process for production of peracetic acid, albeit, *in situ.*. Some dependent claims are directed to use of peracetic acid in treatment of wastewater or contaminated effluent streams. Other claims are directed to bleaching of wood or lignin products, deinking of recycled paper, bleaching of textiles, bleaching of laundry streams, etc. It is believed that use of peroxides, including peracetic acid, for treatment of contaminated wastewaters and other processes, as noted, is known. The combining of a process for making peracetic acid with multiple known uses thereof, even when done *in situ,* does not appear to make a contribution to maintenance of basic life sustaining elements, such as water, of the type contemplated by the above quoted section.

Applicant's renewed petition and comments have been carefully considered, however no error is seen in the previous decision. Consequently the petition remains **DENIED**.

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

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

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In re Application of	:
Mark K. Vineyard et al.	:
Serial No.: 10/900,209	: PETITION TO MAKE SPECIAL
Filed: July 25, 2004	:
Attorney Docket No.: 006352.00002	:

This is in response to applicants' petition filed January 21, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

PFIZER INC
Steve T. Zelson
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

COPY MAILED

SEP 10 2007

OFFICE OF PETITIONS

In re Patent No. 7,160,888	:	DECISION ON
Johnson et al.	:	REQUEST FOR RECONSIDERATION
Issue Date: January 9, 2007	:	OF
Application No. 10/900,210	:	PATENT TERM ADJUSTMENT
Filed: July 28, 2004	:	and
Attorney Docket No. PC25590A	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR § 1.705," filed March 9, 2007. Patentees request that the patent term adjustment be corrected from one hundred forty-one (141) days to two hundred forty-three (243) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED to the extent indicated herein**.

Patentees are given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 forty-three **(243)** days (including a period of reduction for the filing of the letter on September 12, 2006).

On January 9, 2007, the above-identified application matured into U.S. Patent No. 7,160,888. The instant request for reconsideration filed March 9, 2007, 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 141 days. The PTA of 260 days was increased by 1 day for the Office taking in excess of four months to issue the patent after payment of the issue fee and reduced by 120 days pursuant to 37 CFR § 1.704(c)(10) for the submission of an amendment under 1.312 filed September 8, 2006 and a letter filed September 12, 2006, both filed after the mailing of the notice of allowance.

Patentees acknowledge that they submitted on September 12, 2006, after the mailing of a notice of allowance, a communication essentially requesting the addition of the name of an attorney on the front page of the patent to be issued. Patentees argue that the submission of such a paper is not a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Citing MPEP § 2732, patentees argue that since filing a power of attorney after the mailing of a notice of allowance is not a "failure to engage" then filing a paper requesting the addition of the name of an attorney on the front page of the patent without the necessity of changing power of attorney should not be considered a "failure to engage." Patentees also note that the front page of the patent, the file history and the Patent Term History do not reflect that the Office responded to, or complied with the applicants' request for adding the name of an attorney to the front page of the patent.

Patentees also note that the amendment under 312 was filed on September 8, 2006, not September 12, 2006 as shown in PAIR.

Patentees' arguments have been considered. Patentees are correct that the PTA should have been calculated using a date of receipt of September 8, 2006 for the amendment under 312. However, with respect to their arguments regarding the letter of September 12, 2006, patentees are not persuasive. It is undisputed that the letter requesting addition of the name of the attorney to the front page of the patent was filed on September 12, 2006 after the mailing of the notice of allowance. This is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in

which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4)

late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

As described above, the Director has set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. The paper filed September 12, 2006, is not a power of attorney or any other paper identified by the Director. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Thus, filing of the paper after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

It is further noted that applicants failed to take advantage of the appropriate avenue to submit the information contained in the letter, an avenue which would not been a "failure to engage." Specifically, the Director has identified the submission of a Fee(s) Transmittal (PTOL-85B) as one of those papers whose submission after the mailing of the notice of allowance would not constitute a "failure to engage." By way of completion of a section of the PTOL-85(b), an applicant may identify the attorneys to be named on the patent. In this instance, applicants failed to identify all 3 attorneys and filed the communication on September 12, 2006 to correct this error.

Furthermore, the communication filed September 12, 2006, was acted on by the examiner. (It is noted that had this information been provided on the PTOL-85(b)), there would have been no examiner involvement). Contrary to patentees' assertions, in addition to responding to the 312 amendment filed September 8, 2006, the application history shows that the Office action mailed on September 25, 2006 addressed the request to add the attorney to the patent. Moreover, the examiner noted these changes in the record for action by the printer.

In this instance, the fact that the patent issued without the name of the attorney has no bearing on the propriety of entry of the period of reduction. The filing of the paper after the mailing of the notice of allowance was clearly a "failure to

engage" within the meaning of 37 CFR 1.704(c)(10). In this instance, the record actually evidences the interference with the issuance process as the examiner considered this matter. This interference occurred whether or not the relief as requested by applicant was granted. In fact, as with many requests made after submission of the issue fee payment, the matter may be considered and decided but relief is not by change to the issued patent as requested but by way of issuance of a certificate of correction upon further action by patentee (i.e. 37 CFR 3.81(b)).

However, it is noted that the period of reduction of 120 days is not warranted. As indicated above, the Office action mailed September 25, 2006 responded to both the amendment filed September 8, 2006 and the letter filed September 12, 2006. Considering the overlap in these periods, the period of reduction under 37 CFR 1.704(c)(10) is 18 days, counting the number of days in the period beginning on September 8, 2006 and ending on September 25, 2006.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of two hundred forty-three (243) days.

Receipt is acknowledged 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 two hundred forty-three **(243)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,160,888 B2

DATED : January 9, 2007

INVENTOR(S) : Johnson 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 (141) days

Delete the phrase "by 141" and insert – by 243 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

April 14, 2010

Patent No. : 7,532,615 B2
Appl. No. : 10/900,223
Inventor(s) : Kirk Krahn
Issued : May 12, 2009
Title : **UNIVERSAL AGENT LOG-IN USING A SIP REGISTRAR**
Docket No. : **6065-90400**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

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

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Jon P. Christensen
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

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

May 5, 2010

Patent No. : 7,532,615 B2
Appl. No. : 10/900,223
Inventor(s) : Kirk Krahn
Issued : May 12, 2009
Title : **UNIVERSAL AGENT LOG-IN USING A SIP REGISTRAR**
Docket No. : **6065-90400**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

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 again denied.

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Jon P. Christensen
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of James F. Young et al Application No. 10/900,230 Filed: July 26, 2004 Attorney Docket No. 10271-134	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 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 September 26, 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 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Oct11\900230.wpd

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

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

CHRISTENSEN O'CONNOR JOHNSON KINDNESS
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 981012347

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OFFICE OF PETITIONS

In re Application of :
Lew E. Plummer :
Application No. 10/900,237 :
Filed: July 27, 2004 :
Attorney Docket No. PCCR-122151 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed December 21, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 1, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

MAILED

OCT 20 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
MARSCHNER, STEPHEN,et al :
Serial No.: **10/900,252** : DECISION ON PETITION
Filed: July 27, 2004 : *ACCEPTANCE OF COLOR DRAWINGS*
For: **METHODS AND SYSTEMS FOR ANIMATING: FACIAL FEATURES AND METHODS AND : SYSTEMS FOR EXPRESSION : TRANSFORMATION :**

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed July 27, 2004, and resubmitted on November 17, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 7, 8, 9, 12, 14, 15, 16A, 16B, and, 16C, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, MI 49008

In re Application of :

Steven Michael Kuhlman et al. :
Application No. 10/900,258 : DECISION ON PETITION
Filed: July 27, 2004 : TO WITHDRAW
Attorney Docket No. Pharmacia C-01291 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 10, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, withdrawal requested by the assignee, do not meet any of the conditions set forth in 37 CFR 10.40 because the assignee has not intervened in accordance with 37 CFR 3.71.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Pharmacia & UpJohn**
7000 Portage Road
KZO-300-104
Kalamazoo, MI 49001

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BRAKE HUGHES BELLERMANN LLP
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS, MN 55402

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AUG 29 2008

COPY MAILED
AUG 29 2008

In re Application of	:	
Anna Lynn Patterson	:	
Application No. 10/900,259	:	DECISION ON PETITION
Filed: July 26, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 24207-09063	:	

This is a decision on the petition, filed August 26, 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). This is also a decision on the petition under 37 CFR 1.313(c)(1), filed August 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 22, 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 accompanies this decision on petition.

The petition under 37 CFR 1.313(c)(1) is **DISMISSED AS MOOT.**

In view of the petition decision under 37 CFR 1.137(b), this decision is dismissed as moot.

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

This application is being referred to Technology Center AU 2163 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,259	07/26/2004	Anna Lynn Patterson	24207-09063

CONFIRMATION NO. 6355

POA ACCEPTANCE LETTER

79318
BRAKE HUGHES BELLERMANN LLP
c/o Intellevate
PO Box 52050
Minneapolis, MN 55402

OC000000031825548

Date Mailed: 08/29/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,259	07/26/2004	Anna Lynn Patterson	24207-09063

CONFIRMATION NO. 6355

62296
GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

NONPUBLICATION RESCISSION LETTER

OC000000031822490

Date Mailed: 08/28/2008

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 12/04/2008.

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".

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,259	07/26/2004	Anna Lynn Patterson	24207-09063

CONFIRMATION NO. 6355

POWER OF ATTORNEY NOTICE

62296
GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

OC000000031825494

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

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

/idingle/

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

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H.C. PARK & ASSOCIATES, PLC
8500 LESSBURG PIKE
SUITE 7500
VIENNA VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
Min-Chul Suh et al	:	
Application No. 10/900,273	:	DECISION GRANTING PETITION
Filed: July 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6161.0132.US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 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 September 26, 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 2879 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/9/06

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction on Patent No.: 7095278

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

Robert J Pascal
SPE

2817
Art Unit

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

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OFFICE OF PETITIONS

In re Application of
A. Rezai
Application No. 10/900,301
Filed: July 28, 2004
Attorney Docket No. 12637/69

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed October 15, 2004, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of July 28, 2004.

The application was filed on July 28, 2004 without drawings.[1] Accordingly, on September 22, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. The Notice also indicated that the oath or declaration was missing and that a newly executed oath or declaration be submitted.

In response, on October 15, 2004, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of July 28, 2004.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

In view of the above, the Notice mailed September 22, 2004, is hereby withdrawn. The application is accorded a filing date of July 28, 2004, without drawings.

The petition is granted. In view thereof, no petition fee is due and petitioner's deposit account no. 11-0600 will be credited in the amount of $130.00.

It should be noted that the requirement for an oath or declaration is still outstanding and that the Notice mailed September 22, 2004 allowed two months within which to file the oath or declaration until November 22, 2004, after which time the application will become abandoned.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of July 28, 2004, and for an indication on the bib-data sheet that no sheets of drawings were present on filing. However, the preliminary amendment adding the drawings figures will be retained in the file for review by the Examiner in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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NOV 10 2004
OFFICE OF PETITIONS

In re Application of :
Sano : ON PETITION
Application No. 10/900,321 :
Received: July 28, 2004 :
Docket No.: 04132DIV :

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed October 20, 2004, in response to the Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed October 14, 2004.

The petition is **DISMISSED**.

The application was received by the USPTO on July 28, 2004. The Notice mailed October 14, 2004 indicated that the application had been accorded a filing date but that page 1 of the specification appeared to have been omitted from the application as filed.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items 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 items in question 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 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 (37 CFR 1.181(f)).

Petitioner argues that the application as filed included 18 pages of specification, 2 pages of claims and 1 page of

Abstract. Petitioner has included a copy of page 1 of the specification and indicates a receipt card stamped by the U.S. Patent and Trademark Office establishes receipt of the page in question on July 28, 2004.

Petitioner states a copy of the receipt card was enclosed with the instant petition, however, review of the official application file does not indicate receipt of said card. Accordingly, the instant petition is subject to dismissal. Any renewed petition must include proof of receipt in the USPTO of the page in question on July 28, 2004.

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. If petitioners desire to have Fig. 18 entered into the record, a petitioner for reconsideration requesting the later filing date of August 30, 2004 (date of submission of Fig. 18) and entry of Fig. 18 must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand or delivery: service(FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S. Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Alesia M. Brown
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

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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APR 2 8 2005
OFFICE OF PETITIONS

In re Application of :
Sano : ON PETITION
Application No. 10/900,321 :
Received: July 28, 2004 :
Docket No.: 04132DIV :

This is a decision on the "RENEWED PETITION RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed November 18, 2004.

The petition is **GRANTED**.

The application was received by the USPTO on July 28, 2004. The Notice mailed October 14, 2004 indicated that the application had been accorded a filing date but that page 1 of the specification appeared to have been omitted from the application as filed.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items 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 items in question 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 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 (37 CFR 1.181(f)).

A petition was submitted October 20, 2004 where petitioner argued that the application as filed included 18 pages of specification, 2 pages of claims and 1 page of Abstract.

Petitioner included a copy of page 1 of the specification and indicated that a receipt card stamped by the U.S. Patent and Trademark Office establishing receipt of the page in question on July 28, 2004 was available. However, absent a copy of the stamped postcard receipt in the official application file, the petition was dismissed November 10, 2004.

Petitioners herein have reasserted the arguments advanced on October 20, 2004 and have included as proof of mailing and proof of receipt of page one of the specification a postcard date stamped by the Office on July 28, 2004. A copy of page one of the specification purportedly filed with the application on July 28, 2004 was previously supplied.

The original page one of the specification 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 28, 2004 is GRANTED.

Since the original page of specification 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. A refund of the previously submitted $130.00 petition fee paid by credit card has been requested from the Financial Office on petitioner's behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of July 28, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

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OFFICE OF PETITIONS

In re Application of	:	
George W. Muller, et al.	:	
Application No. 10/900,332	:	DECISION GRANTING PETITION
Filed: July 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501872-999323	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 15, 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 1626 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.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Muller *et al.*	Confirmation No.:	6741
Serial No.:	10/900,332	Art Unit:	1626
Filed:	July 28, 2004	Examiner:	J. Nolan, Ph.D.
For:	ISOINDOLINE COMPOUNDS AND METHODS OF THEIR USE	Attorney Docket No:	501872-999323 (9516-324-999)

PETITION FOR WITHDRAWAL FROM ISSUE UNDER 37 C.F.R. § 1.313(C)

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

Sir:

In connection with the above-identified patent application, Applicants respectfully request that this application be withdrawn for issuance. Applicants note that no information disclosure statement has been filed in this application, and thus, this Petition is submitted in order to have the information disclosure statement, which is being submitted herewith, considered by the Examiner.

In this regard, a Request for Continued Examination is also submitted herewith, and thus, this Petition is proper under 37 C.F.R. § 1.131(c)(2). Applicants respectfully request that this Petition be granted and the references provided with the enclosed information disclosure statement be considered and entered into the record.

A fee of $ 130.00 is believed to be due for the submission of this paper and will be paid via EFS Web. However, if any additional fees deemed necessary, please charge this and any other required fees to Jones Day Deposit Account No. 503013.

Adjustment date: 03/06/2008 CKHLOK
03/05/2008 INTEFSW 00003462 503013 10900332
02 FC:1808 130.00 CR

Respectfully submitted,

Date: March 4, 2008

03/06/2008 CKHLOK 00000001 503013 10900332
01 FC:1464 130.00 DA

Hoon Choi (Ltd. Reg. No. L0209)
for: Anthony M. Insogna (Reg No. 35, 203)
JONES DAY
12265 El Camino Real, Suite 200
San Diego, CA 92130
(828) 314-1200

LAI-2934626v1

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
John L. COKER, et al	:	
Application No. 10/900,339	:	DECISION ON PETITION
Filed: July 27, 2004	:	TO WITHDRAW
Attorney Docket No. OIC0164C2US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 2008.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN L. COKER
723 CHATEAU DRIVE,
HILLSBOROUGH, CA 94010

cc: WILLIAM SHAFFER, ESQ.
TOWNSEND AND TOWNSEND & CREW, LLP
379 LYTTON AVE.
PALO ALTO, CA 94301-1431

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EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Kamlesh Kumar Bhatia	:	
Application No. 10/900,340	:	DECISION GRANTING PETITION
Filed: July 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CL2521USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 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 February 21, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3752.

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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hidenori Ohnuki	: DECISION ON REQUEST FOR
Patent Number	: 7598929	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Hidenori Ohnuki
Patent Number : 7598929
Issue Date : 10/06/2009
Application No : 10/900,342
Filed : 07/28/2004

: 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 **1377** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 01 2009

TECHNOLOGY CENTER 2100

Lawrence E. Anderson
Intellectual Property Counsel
U.S. Army Research Laboratory
AMSRD-ARL-0-CC-IP
2800 Powder Mill Road
Adelphi, MD 20783-1197

In re Application of:
Meyers et al.
Appl. No.: 10/900,351
Filed: July 28, 2004
For: **Entangled Quantum Communications and Quantum Imaging**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 19 March 2009, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **GRANTED**.

Petitioner requests that the document on the information disclosure statement submitted on 19 March 2009, entitled "Building the Quantum Network" (January 22, 2001 Proposal) be expunged from the record prior to the issuance of any patent on the application. Petitioner states that the document to be expunged is proprietary material, and subject to a protective order, and that the information has not been otherwise made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid. This document was deemed not material to the patentability of the claims.

The expunged material has been destroyed, the artifact folder closed and therefore the material will not be returned.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612

/Tod Swann/
WQAS, Technology Center 2400
Network, Multiplex, Cable and Security

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.
10/900,351	07/28/2004	Ronald E. Meyers	ARL 03-92	7194

21364 7590 04/01/2009
U S ARMY RESEARCH LABORATORY
ATTN AMSRL CS CC IP
2800 POWDER MILL RD
ADELPHI, MD 207831197

EXAMINER
POWERS, WILLIAM S

ART UNIT	PAPER NUMBER
2434	

MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND IN 46601

COPY MAILED
SEP 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Brian Witt	:	
Application No. 10/900,411	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket Number: 673-002 Paddleboy	:	
Title of Invention: Bicycle Trailer Hitch	:	

This is a decision on the petition filed July 10, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed December 12, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 13, 2006. A Notice of Abandonment was mailed April 25, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: James D. Hall
105 E. Jefferson Blvd. , Suite 400
South Bend, Indiana 46628

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

PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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MAY 12 2008
OFFICE OF PETITIONS

In re Application of

Melnick, et al. :

Application No. 10/900,418

: DECISION ON PETITION

Filed: July 27, 2004

:

Attorney Docket No. 7103.US.O1

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 10, 2007.

The response filed January 29, 2008, is noted.

The application is being forwarded to Technology Center 1600, GAU 1612 for further processing including disposition of the petition under 37 CFR 1.48 filed January 29, 2008.

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

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

NOV 26 2004

In re Application of	:	
Hy Steinberg	:	
Serial No. 10/900,441	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO MAKE SPECIAL
For: ROTARY ELECTRIC SHAVER	:	
WITH ROTATING SCREENS	:	

Applicant's petition, filed July 28, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Hy Steinberg
9646 West McNab Road
Tamarac, FL 33321

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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ROCHE DIAGNOSTICS OPERATIONS INC.
9115 HAGUE ROAD
PO BOX 50457
INDIANAPOLIS IN 46250-0457

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of :
Mitali Ghoshal et al : DECISION ON PETITION
Application No. 10/900,447 : UNDER 37 CFR 1.78(a)(3)
Filed: July 27, 2004 :
Attorney Docket No. BMID9931 CIP D1 US :

This is a decision on the petition filed October 25, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c)) for the benefit of the prior-filed PCT 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of

the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Reference to Prior Application. The amendment filed October 25, 2006 fails to state the relationship of PCT Application No. PCT/US00/17541, filed June 26, 2000, to the above application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), stating the relationship of the prior-filed PCT application to the above application is required.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 272-3208
ATTN: Office of Petitions

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 02 2009

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

In re Application of Rabbani et al.	:	
Application No. 10/900,453	:	Decision on Petition
Filing Date: July 27, 2004	:	
Attorney Docket No. ENZO60(D2)	:	

This is a decision on the petition under 37 CFR 1.181 filed June 4, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a final Office action on September 29, 2008. The Office action set a three-month shortened statutory period for reply. On May 8, 2009, Attorney Fedus received a telephone call from the examiner asking if a reply had been filed in response to the September 29, 2008 Office action. Attorney Fedus determined the September 29, 2008 Office action had never been received and filed the instant petition on June 4, 2009. A Notice of Abandonment was subsequently mailed June 9, 2009.

Petitioner requests withdrawal of the holding of abandonment based on non-receipt of the September 29, 2008. The evidence supplied by petitioner is sufficient to establish non-receipt of the Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1637 will be informed of the instant decision. Thereafter, the Technology Center will mail a new copy of the final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

WOLFF LAW OFFICE, PLLC
P.O. BOX 9855
CHAPEL HILL NC 27515-9855

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
TAKAYA, Minoru et al.	:	CORRECTED
Application No. 10/900,458	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. **TDK-PAUS0004**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Eric King. Eric King has been withdrawn as attorney or agent of record; Kevin Wolff remains of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
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

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P.O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Deirdre Mary Bernadette Hickey, et. al.	:	
Application No. 10/900,489	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. P32682C1	:	

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

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

The Office also acknowledges receipt of an authorization to charge $6 for two (2) advance order soft copies filed on April 11, 2007. Per authorization, $6 has been charged to petitioner's deposit account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Harry Fu
1910 Barrymore Common
Fremont, CA 94538

COPY MAILED
AUG 0 7 2006
OFFICE OF PETITIONS

In re Application of Harry Fu :
Application No. 10/900,499 : Decision on Petition
Filing Date: July 28, 2004 :
For: Pedal Scooter :

This is a decision on the petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 January 11, 2006.

The instant petition requests revival of the application.

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. 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. A form which may be used to change the address is attached.

Technology Center Art Unit 3611 will be informed of the instant decision and the amendment filed February 10, 2006, will be entered and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/122

Privacy Act Statement

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

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

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

PTO/SB/122 (01-06)
Approved for use through 12/31/2008. 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.

CHANGE OF CORRESPONDENCE ADDRESS
Application

Address to:
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	

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: [ ]

OR

☐ Firm or Individual Name

Address

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Telephone	Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

Date	Telephone

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 _____forms are submitted.

This collection of information is required by 37 CFR 1.33. 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 3 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Peter A. Businger, Esq.
344 Valleyscent Avenue
Scotch Plains, NJ 07076-1170

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SEP 20 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Carlin et al.	:	
Application No. 10/900,514	:	
Filed: July 28, 2004	:	
Title of Invention:	:	
LATTICE-MATCHED ALLNN/GAN FOR	:	
OPTOELECTRONIC DEVICES	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed June 27, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed September 29, 2004. The Notice required an executed oath or declaration and a late filing fee oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 30, 2004. A Notice of Abandonment was mailed June 10, 2005.

Applicant files the instant petition, executed oath/declaration and the appropriate fees.

The application file is being referred to the Office of Initial Patent Examination for continued processing 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
P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD,
11TH FLOOR
ARLINGTON, VA 22203

MAILED

MAR 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Jean-Francois CARLIN, et al	:	
Application No. 10/900,514	:	DECISION ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 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 June 4, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and election, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 Revocation Power of Attorney filed with the petition dated December 23, 2009, has been acknowledged and accepted.

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

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2009.

/Diane C. Goodwyn/
Diane C. Goodwyn
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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,514	07/28/2004	Jean-Francois Carlin	

CONFIRMATION NO. 7313

POA ACCEPTANCE LETTER

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

OC000000040411667

Date Mailed: 03/04/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/900,514	07/28/2004	Jean-Francois Carlin	

CONFIRMATION NO. 7313

POWER OF ATTORNEY NOTICE

Peter A. Businger, Esq.
344 Valleyscent Avenue
Scotch Plains, NJ 07076-1170

OC000000040411656

Date Mailed: 03/04/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2009.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Mail Date: 04/21/2010

Applicant	: Stefan Zikeli	: DECISION ON REQUEST FOR
Patent Number	: 7614864	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **777** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Mail Date: 05/18/2010

Applicant : Stefan Zikeli
Patent Number : 7614864
Issue Date : 11/10/2009
Application No : 10/900,518
Filed : 07/28/2004

: 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 **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Ruey-Shii Chen	:	
Application No. 10/900,525	:	DECISION ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. DEE-PT192	:	

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION WITH PETITION FEE REFUND REQUEST", filed October 29, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of July 28, 2004, with 3 pages of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 28, 2004. However, on October 18, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings. In addition, the oath or declaration was missing.

In response, applicant filed the instant petition. Accompanying the petition was a copy of 3 drawing sheets. Applicant maintains that the application as originally filed included 3 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "3 sheets of Drawings" as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 28, 2004, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 22-0493.

Receipt of the 37 CFR 1.63 declaration, filed December 16, 2004, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of July 28, 2004, using the application papers received in the Office on that date and the 3 sheets of drawings as resupplied on petition filed October 29, 2004, and for indication in Office records that 3 sheets of drawings was present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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LOVELAND, CO 80537-0599

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OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Fine, et al.	:	
Application No. 10/900,529	:	DECISION GRANTING PETITION
Filed: July 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10040734-01	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 2006 (certificate of mail date October 27, 2006) cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given power of attorney to prosecute the above-identified application, although has been acting in a representative capacity during the prosecution of this application. If the person signing the petition desires to receive future correspondence regarding this application the appropriate power of attorney documentation 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 regarding this decision should be directed to April Wise at (571) 272-1642.

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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.*

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

cc: DAVID C. HSIA
PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
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SAN JOSE, CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application No. 10/900,551	:	DECISION ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 3591/1408	:	

This is a decision on the petition, filed May 28, 2008[1], 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 timely respond to the Office action of December 21, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before March 21, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on June 8, 2007 of, *inter alia,* amendment and request for extension of time. A copy of the previously submitted reply accompanies the petition.

The amendment and request for a three-month extension of time acknowledged as having been received in the USPTO on June 8, 2007 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment and three-month extension of time were timely received in the USPTO but lost after receipt thereof.[2]

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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[1] It is noted that a petition to withdraw a holding of abandonment was previously filed on August 10, 2007 as evidenced by the post card receipt. However, review of the record shows the August 2007 petition has not been located. Thus this submission of the petition to withdraw the holding of abandonment is timely.

[2] Petitioner should note that since the Office was not in receipt of any reply, the postcard receipt serves as prima facie evidence. However, if the Office had received any of the items on the postcard, the postcard would not have served as prima facie evidence because it is not properly itemized by including the page numbers of each document/ component submitted.

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 June 8, 2007.

This application is being referred to Technology Center AU 3636 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Brock Walter et al	: **DECISION**	
Application No. 10/900,551	: **ON**	
Filed: July 27, 2004	: **PETITION**	
Attorney Docket No. 3591/1408	:	

This is a decision on the combined petition filed on December 24, 2008, which includes:

- a petition under 37 CFR 1.182 to withdraw the prior holding of non-abandonment,
- a petition under 37 CFR 1.137(a) to revive an unavoidably abandoned application, and
- an alternative petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

This decision also addresses the paper filed on March 16, 2010 entitled "Supplement to Petition Pursuant to 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application" ("the March 16, 2010 supplement to the combined petition"), and the power of attorney and change of correspondence address, also filed on March 16, 2010.

The combined petition filed on December 24, 2008, the March 16, 2010 supplement to the combined petition, the March 16, 2010 power of attorney and change of correspondence address, and the record as a whole, are before the Office of Patent Legal Administration for consideration.

The $400 petition fee set forth in 37 CFR 1.17(f) for the present petition under 37 CFR 1.182, the $540 petition fee set forth in 37 CFR 1.17(l) for the present petition under 37 CFR 1.137(a), and the petition fee of $1620 set forth in 37 CFR 1.17(m) for the present petition under 37 CFR 1.137(b), will be charged to deposit account no. 12-1216 as authorized on page 2 of the December 24, 2008 combined petition, and on pages 1-2 of the March 16, 2010 supplement to the combined petition.

SUMMARY

The petition under 37 CFR 1.182 to withdraw the prior holding of non-abandonment, filed on December 24, 2008, is **granted**. The June 18, 2008 decision, granting the petition under 37 CFR 1.181 to withdraw the holding of abandonment, is **vacated**.

The petition under 37 CFR 1.137(a) to revive an unavoidably abandoned application, filed on December 24, 2008, is **dismissed**. The alternative petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on December 24, 2008 and on March 16, 2010, is **granted**.

The power of attorney and change of correspondence address, filed on March 16, 2010, is **effective**.

BACKGROUND

- On July 27, 2004, a continuation under 37 CFR 1.53(b) of PCT/US03/02251 was deposited with the Office. The application was assigned application number 10/900,551 and was accorded a filing date of July 24, 2004.

- On October 15, 2004, a "Notice to File Missing Parts of Nonprovisional Application", which set a two-month period for reply, was mailed by the Office.

- On January 14, 2005, a reply to the October 15, 2004 notice, and a one-month extension of time, were received.

- On August 20, 2005, a nonfinal rejection, which set a three-month shortened statutory period for reply, was mailed by the Office.

- On January 30, 2006, an amendment and a three-month extension of time were received.

- On April 19, 2006, a final rejection, which set a three-month shortened statutory period for reply, was mailed by the Office.

- On October 19, 2006, a request for a continued examination (RCE), the appropriate fee for the RCE, an amendment, and a three-month extension of time, were received.

- On October 31, 2006, a "Notice of Non-Compliant Amendment", which set a reply period of one month, or thirty days, whichever was longer, from the mail date of the notice, was mailed by the Office.

- On November 28, 2006, an amendment in reply to the October 31, 2006 notice was received.

- On December 21, 2006, a nonfinal rejection, which set a three-month shortened statutory period for reply, was mailed by the Office.

- On July 24, 2007, a "Notice of Abandonment" was mailed by the Office.

- On May 28, 2008, a paper entitled "Statement Under 37 CFR 1.8(b)", and a transmittal letter, were received. The paper entitled "Statement Under 37 CFR 1.8(b)" was accompanied by: 1) a copy of a postcard receipt bearing an Office date stamp of June 8,

2007, 2) a copy of a transmittal letter, a 15-page amendment and a three-month extension of time, each bearing a date of June 6, 2007, 3) a copy of a postcard receipt bearing an Office date stamp of August 10, 2007, and 4) a copy of a transmittal letter and a two-page petition entitled "Petition to Withdraw Erroneous Abandonment Under 37 CFR 1.8(b), or Alternative Petition Under 37 CFR 1.137(a) to Revive Unavoidably Abandoned Application", or Alternatively Under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application", each bearing a date of August 8, 2007.

- On June 18, 2008, a decision was mailed in response to the May 28, 2008 paper entitled "Statement Under 37 CFR 1.8(b)". The June 18, 2008 decision concluded that the amendment and the three-month extension of time, each bearing a date of June 6, 2007, and the petition bearing a date of August 8, 2007, were timely filed. The June 18, 2008 decision also granted the petition dated August 8, 2007, which was treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment. The application was restored to pending status.

- On December 24, 2008, the present petition entitled "Combined Petition Pursuant to 37 C.F.R. § 1.182 to Withdraw the Prior Holding of Non-Abandonment and Petition Pursuant to 37 C.F.R. §§ 1.137(a) and 1.137(b) to Revive the Unintentionally or Unavoidably Abandoned Application on New Grounds", and an amendment, were received. The present petition includes exhibits A, A-1 to A-12, B, and C.

- On March 16, 2010, a paper entitled "Supplement to Petition Pursuant to 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application" ("the March 16, 2010 supplement to combined petition"), and a power of attorney and change of correspondence address, were received.

DECISION

The Petition under 37 CFR 1.182 to Withdraw the Prior Holding of Non-Abandonment

The present petition under 37 CFR 1.182 requests the Office to vacate the June 18, 2008 decision granting the petition dated August 8, 2007, which was treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. Based on evidence presented by Mr. William Prendergast, formerly an attorney of record,[1] the decision held that the amendment and the request for a three-month extension of time, each dated June 6, 2007, and the petition under 37 CFR 1.181, dated August 8, 2007, were timely filed.

On December 21, 2006, a nonfinal Office action was mailed in the above-identified application, no. 10/900,551 ("the '551 application"). Subsequently, on July 24, 2007, a notice of abandonment was mailed, stating that the '551 application was abandoned view of applicant's "failure to timely file a proper reply to the Office letter" mailed on December 21, 2006.

[1] The practitioners who were associated with customer number 00757, assigned to the law firm of Brinks, Hofer, Gilson, and Lione, were the former attorneys of record in this application, including Mr. Andrew Stover and Mr. William Prendergast.

On May 28, 2008, Mr. William Prendergast filed a paper entitled "Statement under 37 CFR 1.8(b)" ("the May 28, 2008 paper"), stating that a previously mailed amendment and a petition to withdraw the holding of abandonment "does not appear to have been received by the U.S. Patent and Trademark Office".[2] The May 28, 2008 paper was accompanied by a copy of a petition dated August 8, 2007, which was treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment, and a copy of a postcard receipt bearing an Office date stamp of August 10, 2007. The May 28, 2008 paper was also accompanied by copies of a 15-page amendment and a three-month extension of time, each dated June 6, 2007, and a copy of a postcard receipt bearing an Office date stamp of June 8, 2007.[3] Mr. Prendergast attested, pursuant to 37 CFR 1.8(b), to the previous mailing of the amendment and extension of time on June 6, 2007 and to the previous mailing of the petition on August 8, 2007, and further stated that the copies of the postcard receipts were submitted in support of his statement pursuant to 37 CFR 1.8(b).[4]

On June 18, 2008, a decision was mailed in response to the May 28, 2008 paper, concluding, based on the evidence presented by the copies of the postcard receipts,[5] that the amendment and the three-month extension of time dated June 6, 2007, as well as the petition dated August 8, 2007, were timely filed.[6] The June 18, 2008 decision granted the petition dated August 8, 2007, which was treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment, and restored the application to pending status.

With the present petition filed on December 24, 2008, however, the applicant has provided evidence that the postcard receipts, submitted on May 28, 2008, may have been fabricated.[7] The applicant states that ". . . [p]etitioner's former counsel, William F. Prendergast, made false statements and submitted falsified documentation in conjunction with the Petition to Withdraw Erroneous Abandonment, and . . . the petition he submitted was likely granted on the basis of false information,"[8] and that "Mr. Prendergast made false statements to the U.S. Patent and Trademark Office and fabricated documentation supporting those statements in order to revive the present application."[9]

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[2] See the first page of the May 28, 2008 paper.

[3] The postcard receipt bearing an Office date stamp of June 8, 2007, which was submitted as proof of the timely receipt by the United States Patent and Trademark Office ("the Office") of the June 6, 2007 submission, lists an amendment and a request for an extension of time. The postcard receipt bearing an Office date stamp of August 10, 2007, which was submitted as proof of the timely receipt of the August 8, 2007 submission, lists a "Pet. to Withdraw Erroneous Abandonment et al. with Amendment". Both postcard receipts identify the present application.

[4] See the second page of the May 28, 2008 paper.

[5] See page 1 as well as footnotes 1 and 2 of the June 18, 2008 decision.

[6] See MPEP 711.03(c), subsection I B., which provides, in pertinent part:

> . . . applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment.

See also MPEP 503, which provides, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

[7] See, for example, exhibit A, the statement of Andrew Stover, Esq., as well as exhibits A-11 and A-12.

[8] See page 1 of the present petition.

[9] See page 3 of the present petition.

Based on the showing submitted with the present petition, the '551 application was abandoned as of March 22, 2007, due to the failure to timely reply to the nonfinal Office action of December 21, 2006. Accordingly, the petition under 37 CFR 1.182, filed on December 24, 2008, is **granted**. The June 18, 2008 decision, granting the petition under 37 CFR 1.181 to withdraw the holding of abandonment, is **vacated**.

The Petition under 37 CFR 1.137(a) to Revive an Unavoidably Abandoned Application

The applicant requests the Office to revive the present application, which the applicant believes to have been unavoidably abandoned, due to the apparent misrepresentations of his former counsel.

In general, a party is bound by the actions of his counsel. See *Link v. Wabash R.R.*, 370 U.S. 626, 82 S. Ct. 1386 (1962). However, where counsel apparently has made an intentional misrepresentation and has falsified a document, the applicant is permitted, during the prosecution of the application, to "cure" the misrepresentation. See *Rohm and Haas v. Crystal Co.*, 722 F.2d 1556, 1571-1572, 220 USPQ 289, 301-302 (Fed. Cir. 1983), in which the court held:

> "[T]he narrow issue . . . is whether voluntary efforts during prosecution by or on behalf of an applicant, knowing that misrepresentations have been made to the examiner of his application, can ever alleviate this effect. Taking into account human frailty and all of the objectives of the patent system, we think it desirable to permit misdeeds to be overcome under certain limited circumstances.
>
> The first requirement to be met by an applicant aware of misrepresentation in the prosecution of his application and desiring to overcome it, is that he expressly advise the PTO of its existence, stating specifically wherein it resides. The second requirement is that, if the misrepresentation is of one or more facts, the PTO be advised what the actual facts are, the applicant making it clear that further examination in light thereof may be required if any PTO action has been based on the misrepresentation. Finally, on the basis of the new and factually accurate record, the applicant must establish patentability of the claimed subject matter.

In *Rohm and Haas,* an intentional misrepresentation was made in affidavits that were filed to overcome a rejection of the claims. In the present case, former counsel apparently intentionally misrepresented the filing dates of documents including an amendment, an extension of time, and a petition, and apparently fabricated postcard receipts which were filed as proof of the timely Office receipt of these documents, which caused the Office to grant a petition to withdraw a holding of abandonment. Since former counsel apparently intentionally misrepresented the filing dates of the documents to the Office, and apparently filed fabricated postcard receipts with the Office, the holding of *Rohm and Haas* is considered to apply to the facts of this case. Regarding the first and second requirements set forth in *Rohm and Haas*, the applicant has advised the Office of the apparent misrepresentation of the filing dates for these documents, and of the apparent fabrication of the postcard receipts. The applicant has also stated that the applicant believes that "the petition [Mr. Prendergast] submitted was likely granted on the basis of false information", making it clear that the application was abandoned, and that the filing of the

present petition was required to revive the application. Regarding the third requirement set forth in *Rohm and Haas*, the applicant has filed, with the present petition, an amendment in response to the December 21, 2006 Office action, which will be referred to Technology Center Art Unit 3636 for processing of the amendment upon mailing of this decision.

In evaluating a petition under 37 CFR 1.137, three periods are considered:[10]

(1) the delay in the reply that originally resulted in the abandonment,
(2) the delay in filing an initial petition under 37 CFR 1.137 to revive the application, and
(3) the delay in filing a *grantable* petition under 37 CFR 1.137 to revive the application.

Regarding period (1), the applicant has provided sufficient evidence to show that the delay in the reply that originally resulted in the abandonment was unavoidable. Period (3) is not applicable, because the present petition is the initial petition filed under 37 CFR 1.137.[11] Regarding period (2), however, the present petition lacks sufficient evidence to show that the delay in filing the initial petition under 37 CFR 1.137(a) was unavoidable.

The applicant has provided evidence that the applicant was notified of the abandoned status of the application on August 21, 2008. The present petition under 37 CFR 1.137(a), however, was not filed by the applicant until December 24, 2008, more than four months later.

MPEP 711.03(C), subsection II D, provides, in pertinent part:

> Where a petition pursuant to 37 CFR 1.137(a) . . . is not filed within 3 months of the date the applicant is first notified that the application is abandoned . . . the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable".

The applicant has presented evidence that Mr. Prendergast may have intentionally concealed the abandonment of this application from his law firm, Brinks Hofer Gilson and Lione ("Brinks Hofer"). The applicant also states that on September 4, 2008, Brinks Hofer informed the applicant that an investigation of the contents of Mr. Prendergast's office and files indicated that Mr. Prendergast falsified the above-discussed postcard receipts.[12] The evidence and statements presented by the applicant may reasonably show how the four-month delay between August 21, 2008, the date that applicant states that he was first notified of the abandonment, and December 24, 2008, the filing date of the present petition, was unintentional. However, the applicant has not clearly shown how the four-month delay was *unavoidable*. Specifically, the applicant has not provided evidence showing the stage of the investigation on November 21, 2008, three

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[10] See MPEP 711.03(c), subsection II D.

[11] For example, if a timely filed petition under 37 CFR 1.137 were dismissed on other grounds, applicant cannot intentionally delay the filing of a renewed petition Applicant must provide a showing that any delay in a renewed, and grantable, petition is either unavoidable (for petitions under 37 CFR 1.137(a)) or unintentional (for petitions under 37 CFR 1.137(b)). See *In re Application of Takao*, 1990 Comm'r Pat. LEXIS 6, 17 USPQ2d 1155 (Comm'r Pat. 1990).

[12] See item no. 10 on page 5 of the present petition.

months after the applicant states that he was first notified of the abandonment, and why an additional 33-day delay in order to file the present petition was unavoidable.

In addition, a grantable petition under 37 CFR 1.137(a) must be accompanied by (1) a reply to the outstanding Office action, (2) the petition fee set forth in 37 CFR 1.17(l), (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable,[13] and (4) any terminal disclaimer (and fee) required by 37 CFR 1.137(d).

The applicant has submitted, with the present petition filed on December 24, 2008, an amendment and a petition fee under 37 CFR 37 CFR 1.17(l), which satisfy items (1) and (2), respectively. Regarding item (4), no terminal disclaimer is required pursuant to 37 CFR 1.137(d), because the present application was filed after June 5, 1995. The applicant has not, however, satisfied item (3), because the applicant has not shown that the *entire* delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable.

Furthermore, where, as here, a petition under 37 CFR 1.137(a) is filed more than one year after the date of the abandonment of the application,[14] the applicant must also provide (see MPEP 711.03(c), subsection II D):

A. further information as to when the applicant (or applicant's representative) first became aware of the abandonment of the application; and

B. a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).

The applicant has provided, with the present petition, a further showing as to when the applicant first became aware of the abandonment of the application. The applicant has not, however, provided a sufficient showing as to how the *entire* 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 determining if the delay was unavoidable, courts have adopted the standard of due care of a reasonably prudent person:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. *In re Mattullath* , 38 App. D.C. 497, 514-15 (1912), quoting and adopting *Ex Parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).[15]

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[13] See 35 U.S.C. 133.

[14] March 22, 2007.

[15] See also *Ray v. Lehman*, 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) ("Under . . . [35 U.S.C.] § 133, . . . the standard is unavoidable delay . . . in order to satisfy this standard, one must show that he exercised the due care of a reasonably prudent person").

The applicant has presented evidence that Mr. Prendergast may have intentionally concealed the abandonment of this application from his law firm, Brinks Hofer Gilson and Lione ("Brinks Hofer"), and may have submitted to the Office fabricated evidence of the timely receipt by the Office of several documents. The applicant has not, however, provided sufficient evidence that the *entire* delay in discovering the abandoned status of the application, from March 22, 2007, the date of the abandonment of the application, until August 21, 2008, the date that the applicant was informed of the abandonment by Brinks Hofer, occurred despite *applicant's* diligence in prosecuting the application.[16]

The applicant has presented evidence showing that once, on March 31, 2008, applicant communicated with applicant's former counsel of the law firm of Brinks Hofer,[17] inquiring about the status of the present application.[18] Evidence has not been presented, however, of any subsequent communication regarding the status of this application between former counsel and applicant, including any response by former counsel to applicant's March 31, 2008 inquiry, until August 21, 2008, nearly five months later. The applicant has also not submitted evidence of any other inquiry by the applicant specifically regarding the status of this application from March 21, 2007, the due date for the December 21, 2006 nonfinal Office action, until March 31, 2008, more than one year after the due date for the reply.

The applicant states that he did not receive a copy of the December 21, 2006 nonfinal Office action.[19] However, the applicant does not state whether the applicant was aware of the Office action, even if the applicant did not receive a copy from his former counsel. Furthermore, the applicant does not explain, for example, whether the applicant was aware of the earlier filing, on the October 19, 2006, of a request for a continued examination (RCE) and an amendment, whether the applicant received a copy of the October 31, 2006 "Notice of Non-Compliant Amendment", or whether the applicant was aware of the subsequent filing of the November 28, 2006 amendment, all of which occurred only a few months before the mailing of the December 21, 2006 Office action. If, for example, the applicant was aware of the filing of the RCE and/or the amendments, the applicant has not explained whether he inquired into the status of the application, with either the Office or his former counsel, between the filing of these documents in 2006 and March 31, 2008. See MPEP 203.08, subsection II, which provides, in pertinent part (emphasis in bold added, underlining in original):

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[16] Decisions on revival are made on a "case-by-case basis, taking of the all facts and circumstances into account". *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was unavoidable. See, e.g., *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N. D. Ind. 1987). See also MPEP 711.03(c), subsection II C 2.

[17] The practitioners who were associated with customer number 00757, assigned to the law firm of Brinks, Hofer, Gilson, and Lione, were the former attorneys of record in this application, including Mr. Andrew Stover and Mr. William Prendergast.

[18] See item no. 6 on page 4 of the present petition, and paragraph no. 9 of page 2 of Exhibit A, the statement of Andrew Stover, Esq., which accompanied the present petition. Regarding the copies of e-mail communications designated as Exhibit A-5, there is no evidence of record that these e-mails specifically referred to the present application. Furthermore, the applicant has not explained how the reference to "Sacral Support" in the March 31, 2008 e-mail from Mr. Stover to Mr. Prendergast refers only to this specific application.

[19] The applicant also states that applicant never received the notice of abandonment. However, abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a notice of abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 142 USPQ 26, (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

> . . . in the event that a six month period has elapsed [from the filing of applicant's reply], and no response from the Office is received, applicant should inquire as to the status of the application **to avoid potential abandonment.** Applicants are encouraged to use PAIR to make status inquiries.

A diligent applicant, who was aware of the filing of the RCE and/or the amendments, would have inquired into the status of the application after a six month period had elapsed, or at least within one year, from the filing of the RCE and/or the amendments, when no response from the Office was received.

Finally, the applicant has not presented evidence of any inquiry by the applicant into the status of this application, either by contacting his former counsel or by contacting the Office, other than the one inquiry on March 31, 2008, during the entire time period between March 21, 2007, the due date for the reply to the outstanding Office action, and August 21, 2008, when the applicant learned of the abandonment.

For the reasons given above, the applicant has not submitted sufficient evidence showing:

1. how the four-month delay between August 21, 2008, the date that the applicant states that he was first notified of the abandonment of the application, and December 24, 2008, the filing date of present petition under 37 CFR 1.137(a), was unavoidable,

2. how the *entire* delay in discovering the abandonment of the application occurred despite the exercise, by the applicant, of due care and diligence in prosecuting the application, and

3. how the *entire* delay in filing the required reply from November 21, 2008, the due date for the reply, until the filing of a grantable petition was unavoidable, pursuant to 37 CFR 1.137(a)(3).[20]

Accordingly, the petition under 37 CFR 1.137(a), filed on December 24, 2008, is **dismissed**.

The Petition under 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) a reply to the outstanding Office action, (2) the petition fee set forth in 37 CFR 1.17(m), and (3) a proper

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[20] The applicant cites *In re Lonardo*, 1990 Commr. Pat. LEXIS 18, 17 USPQ2d 1455 (Comm'r Pat. 1990), in which unavoidable delay was found where applicant's representative concealed the abandonment of the application from the applicant. In *Lonardo*, the diligence of both the applicant's representative, and of the applicant, was considered. "Proper considerations include the extent of diligence exhibited by the petitioner himself and by his attorney, in connection with the delay for which the application became abandoned and also with their respective efforts to revive the abandoned application." *Lonardo*, 17 USPQ2d at 1455. In *Lonardo*, however, the applicant made more than one inquiry, with his former counsel, into the status of the application. Furthermore, the above-quoted passage of current MPEP 203.08, subsection II, did not appear in the former editions of the MPEP that were published at the time of *Lonardo*. See also *Huston v. Ladner*, 973 F.2d 1564, 23 USPQ2d 1910 (Fed. Cir. 1992), in which the court declined to hold that "attorney negligence" constituted good cause for excusing the failure to meet the Office requirement, expressly stating that the court was not bound by *Lonardo*.

statement under 37 CFR 1.137(b)(3) that the entire delay in filing the required reply from the due date of the reply to the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.[21] The applicant has filed an amendment[22] and a petition fee under 37 CFR 1.17(m), which satisfy items (1) and (2), respectively.[23]

A statement under 37 CFR 1.137(b)(3) has been submitted with the March 16, 2010 supplement to the combined petition, which satisfies item (3).

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, the United States Patent and Trademark Office ("the Office") is relying on the duty of candor and good faith of the applicant and of applicant's representative. See also 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and *Changes to Patent Practice and Procedure,* 62 Fed. Reg. 53131, 53160, 53178; 1203 *Off. Gaz. Pat. Office* 63, 88, 103 (responses to comment nos. 64 and 109) (October 21, 1997) (final rule) (applicant's representative is obligated under [former] 37 CFR 10.18(b) [now 37 CFR 11.18(b)] to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b)(3) to the Office). The signatures appearing on the December 24, 2008 combined petition and on the March 16, 2010 supplement to the combined petition constitute a representation to the Office that the signing attorney has made an inquiry in accordance with 37 CFR 11.18(b), to ascertain that the delay was unintentional.

Accordingly, based on the certification under 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and on the specific facts and circumstances of this application, the alternative petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on December 24, 2008 and on March 16, 2010, is **granted**.

The power of attorney and change of correspondence address, filed on March 16, 2010, is **effective**.

CONCLUSION

- The petition under 37 CFR 1.182 to withdraw the prior holding of non-abandonment, filed on December 24, 2008, is **granted**. The June 18, 2008 decision, granting the petition under 37 CFR 1.181 to withdraw the holding of abandonment, is **vacated**.

- The petition under 37 CFR 1.137(a) to revive an unavoidably abandoned application, filed on December 24, 2008, is **dismissed**.

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[21]Regarding 37 CFR 1.137(b)(4), no terminal disclaimer is required pursuant to 37 CFR 1.137(d), because the present application was filed after June 5, 1995.

[22] The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. "Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect." See MPEP 711.03(c) II A 2 (a).

[23] The amendment was filed with the present petition on December 24, 2008. The authorization to charge the petition fee to the deposit account of applicant's representative appears on page 2 of the March 16, 2010 supplement to the combined petition, entitled "Supplement to Petition Pursuant to 37 CFR 1.137(b) to Revive an Unintentionally Abandoned Application".

- The alternative petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on December 24, 2008 and on March 16, 2010, is **granted**.

- The power of attorney and change of correspondence address, filed on March 16, 2010, is **effective**.

- This application is being referred to Technology Center Art Unit 3636 for processing of the amendment filed on December 24, 2008.

- Any inquiry concerning this decision should be directed to Cynthia L. Nessler, Senior Legal Advisor, at (571) 272-7724.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration

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

2/29/08

In re Application of :
Zikorus, Arthur W. et al
Appl. No.: 10/900,563
Filed: Jul. 28, 2004
Attorney Docket Number: VNUS.502DVC1C1
For: METHOD OF USING EXPANDABLE VEIN LIGATOR CATHETER HAVING MULTIPLE ELECTRODE LEADS

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed Jan. 8, 2008 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement under the heading of Non Patent Literature Documents, (total of nine documents) filed Jan. 8, 2008 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 charged.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file. The information has been closed from public view for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner Henry C. Yuen at 571-272-4856.

Decision held in ABEYANCE.

for Karen M. Young

Frederick R. Schmidt, Director
Technology Center 3700

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

In re Application of:
ZIKORUS, ARTHUR W. et al. :
Appl. No.: ~~10/900,593~~ 10/900563 : DECISION ON PETITION
Filed: Jul. 28, 2004 : Under 37 CFR 1.59
For: METHOD OF USING EXPANDABLE VEIN :
LIGATOR CATHETER HAVING :
MULTIPLE ELECTRODE LEADS :

This is a response to the petition under 37 CFR 1.59(b), filed on Jan. 8, 2008 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed Jan. 8, 2008 be expunged from the record. Petitioner states that 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 information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The material has been shredded.

Petition to expunge GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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United States Patent and Trademark Office
P.O. Box 1450
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Date: 03/29/10

Patent No. : 7271796 B1
Ser. No. : 10/900,564
Inventor(s) : MOLL, ROBERT E.
Issued : 09/18/07
Title : **RECONFIGURABLE CONTROL FOR A COMBAT VEHICLE**
Docket No. : **102635-100**

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

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

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

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

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

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

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

Lamont M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

LMN

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United States Patent and Trademark Office
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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,271,796 :
Issue Date: September 18, 2007 :
Application No. 10/900,564 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. 102635-100 :

This is a decision on the petition filed April 7, 2010, 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 correct assignee's name is Measurement Systems, Inc. and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests a certificate of correction be issued to correct the matter.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request under 37 CFR 3.81(b) was not accompanied by an acceptable certificate of correction as required by 3.81(b). *See also* MPEP 1481.01. Petitioner failed to update the city

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

and state of the assignee. Printing the proposed certificate of correction would result in Measurement System, Inc.'s residence being incorrectly listed as Wallingford, CT. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Measurement Systems, Inc., Fairfield, CT has been recorded. Therefore, upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Measurement Systems, Inc., Fairfield, CT was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Measurement Systems, Inc., Fairfield, CT, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Wang, et al.	:	
Application No. 10/900,565	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 918-04072803	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 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 Charles C.H. Wu, the sole attorney of record.

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

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

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

There is an outstanding Office action mailed July 11, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Ran-Hong Raymond Wang & Min-Shine C. Wang
3002 Dow Avenue
Suite 310
Tustin, CA 92780

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Mail Date: 04/21/2010

Applicant	: Michael K. Bugenhagen	: DECISION ON REQUEST FOR
Patent Number	: 7626979	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,569	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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In re Application of	:	
David Robert Horgan	:	
Application No. 10/900,575	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. DRH-001	:	

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

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 22, 2005. Accordingly, this application became abandoned on September 23, 2005. A Notice of Abandonment was mailed on January 20, 2006.

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

The required statements and records have been submitted and considered.

The petition is **GRANTED**.

Please note, 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 $1080.00 extension of time submitted with the petition on February 17, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 50-1721.

This application is being forwarded to Technology Center 2800 for review of the amendment filed February 17, 2006.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Myers, Bigel, Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert V. Allen, et al.	:	
Application No. 10/900,587	:	DECISION ON PETITION
Filed: July 23, 2004	:	TO WITHDRAW
Attorney Docket No. 9402-2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2005.

The request is **NOT APPROVED**.

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Bob Allen, Chief Manager
Ceramic Sensors, LLC
914 Harpeth Valley Place
Nashville, TN 37221

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 37428
RALEIGH NC 27627

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DEC 06 2006

OFFICE OF PETITIONS

In re Application of	:	
ALLEN, et al.	:	
Application No. 10/900,587	:	DECISION ON PETITION
Filed: July 23, 2004	:	TO WITHDRAW
Attorney Docket No. 9402-2	:	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 August 28, 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 Scott C. Hatfield on behalf of all attorneys of record who are associated with customer No. 20792. All attorneys/agents associated with the Customer Number 20792 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 Robert V. Allen at the address indicated below. There is an outstanding Office action mailed August 4, 2006 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: **ROBERT V. ALLEN**
123 BELLE VALLEY DRIVE
NASHVILLE, TN 37209

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
10/900,587	07/23/2004	Robert V. Allen	9402-2

CONFIRMATION NO. 7801

OC000000021494233

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY, & PIERCE, P.L.C
7700 BONHOMME, STE 400
ST. LOUIS, MO 63105

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of
Hong Xie, et al.
Application No. 10/900,599
Filed: July 28, 2004
Attorney Docket No. 4862-000003/US

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 8, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received July 23, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 29 2005

OFFICE OF PETITIONS

BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

In re Application of
Harrington et al.
Application No. 10/900,608
Filed: July 28, 2004
Attorney Docket No. A2509Q-US-NP
For: Method for Determining Overall Effectiveness of a Document

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 December 3, 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 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 (2). The copies of the declaration signed by inventors Harrington, Jhong, and Seo do not include any citizenship information for Omega. The copies of the declarations signed by the other signing inventors have the word "unknown" for the citizenship of Omega.

35 USC 115 requires citizenship to be listed for each inventor. Therefore, a supplemental declaration must be filed providing the citizenship of Omega.

Paragraph 5 of the petition states that Ms. Debra Neels verified the citizenship of Omega. However, even if the citizenship information was not verified or cannot be found, a supplemental declaration may still be filed. The other inventors may sign a declaration which gives a citizenship for the non-signing inventor even if they are not 100% sure the information is correct. A good faith belief as to citizenship does not require absolute certainty.

The following information is provided to assist petitioner in reviewing petitioner's deposit account balances. Two deposit account numbers were filed with the papers accompanying the instant petition. On December 7, 2004, the $200 petition fee and the $130 surcharge were charged to deposit account number 50-2737. On December 10, 2004, $40 was charged to Deposit account number 24-0037 for the recordation of an assignment. On February 22, 2005, an Office employee credited the $200 petition fee back to deposit account no. 50-2737 and charged the $200 fee to deposit account number 24-0037.

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 concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of
Harrington et al.
Application No. 10/900,608
Filed: July 28, 2004
Attorney Docket No. A2509Q-US-NP
For: Method for Determining Overall Effectiveness of a Document

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed May 12, 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.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of
Harrington, et al.
Application No. 10/900,613
Filed: July 28, 2004
Attorney Docket No. A2509-US-NP
For: MULTI-VERSIONED DOCUMENTS AND METHOD FOR CREATION AND USE THEREOF

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

This is in response to the petition under 37 CFR 1.47(a), filed December 3, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventor, Noel S. Omega, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Duane C. Basch establishes that the inventor was successfully mailed the application papers, including the specification, claims, and drawings, but failed to respond to numerous requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2176 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOEL S. OMEGA
14300 TERRA BELLA STREET #83
PANORAMA CITY, CA 91402

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Harrington, et al. :
Application No. 10/900,613 :
Filed: July 28, 2004 : LETTER
Attorney Docket No. A2509-US-NP :
For: MULTI-VERSIONED DOCUMENTS AND :
METHOD FOR CREATION AND USE
THEREOF

Dear Mr. Omega:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Jay Logue	: DECISION ON REQUEST FOR
Patent Number	: 7627635	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1058** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 11/10/2009
Patent No.	: PP 17,387 P3
Serial No.	: 10/900,689
Inventor(s)	: White
Issue Date	: January 30, 2007
Title	: **PEAR TREE NAMED 'CRISPIE'**
Doc./File No.	: **BR6 P58**

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.

Respecting the alleged error(s) in your request, after further review by the examiner, it is determined that the the proposed changes of denomination is improper under the UPOV treaty. The name cited in the patent was approved and published by a UPOV member country in 1998. The name can no longer be changed. No correction is in order here.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

STRATTON BALLEW
213 S 12TH AVE
YAKIMA WA 98902

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/24/09

TO SPE OF : ART UNIT **1661 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/900,689** Patent No.: **PP17,387**

Attn: Wendy Haas

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: The proposed change of denomination is improper under the UPOV treaty. The name cited in the patent was approved and published by a UPOV member country in 1998. The name can no longer be changed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/24/09

Paper No.: _____

TO SPE OF : ART UNIT 1661 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/900,691 Patent No.: PP17,624

Attn: Susan McCormack-Ewoldt

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest G. Wilson, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

8-10-09
SMcCormack-Ewoldt - Primary Examiner
AU 1661

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 01 2009

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,449,482 :
Issued: November 11, 2008 :
Application No. 10/900,705 : PATENT TERM ADJUSTMENT
Filed: July 28, 2004 :
Dkt. No.: 19128-008001 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed January 12, 2009.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,449,482 on November 11, 2008. The patent issued with a PTA 455 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the adjustment be increased from 455 days to 927 days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, "the correct reading of 35 U.S.C. § 154(b)(1)(B) ("GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY"), is that the number of days delay in issuance of the patent is counted from the day after 3-years from the filing date of the application on which the patent is granted. Furthermore, according to *Wyeth v. Dudas,* the correct reading of the provision of 35 U.S.C. § 154(b)(2)(A) (that various periods of delay should not overlap), is that periods of delay attributable to the PTO under 35 U.S.C. § 154(b)(1)(A) (that occur *prior to* three (3) years elapsing from the application's filing date) do not overlap with the period under 35 U.S.C. § 154(b)(1)(B) (which is measured from three (3) years *after* the application's filing date)."

Patentees' calculation of adjustment asserts that the following adjustments do not overlap: a three year delay by the Office, pursuant to 37 CFR 1.703(b), of 472 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 575 days. The 472-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on July 28, 2004, and the patent having been issued on November 11, 2008. Patentees assert that in addition to this 472-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 575 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 120 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,047 days (deemed by applicants to be the sum of the period of three year delay (472 days) and the period of examination delay (575 days), reduced by zero days of overlap). As such, patentees assert entitlement to a patent term adjustment of 927 days (472 days *plus* 575 days *less* zero days of overlap *less* 120 days of applicant delay).

The Office agrees that as of the time that at the time of issuance of the patent, the application was pending three years and 472 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 575 days is correct. At issue is whether patentees should accrue an additional 472 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 575 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 472 days of delay in issuing the patent overlaps with the period of examination delay of 575 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for

> extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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)(1)(A) is the entire period during which the application was pending before the Office, July 28, 2004, to the date the patent issued on November 11, 2008. Prior to the issuance of the patent, 575 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 472 days for Office delay in issuing the patent overlap with the 575 days of Office delay. During that time, the issuance of the patent was delayed by 575 days. The Office did not delay 575 days and then delay an additional 472 days. Accordingly, as the 472 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 575 days attributable to grounds specified in § 1.702(a), entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. The fee will not be refunded, as requested, as submission of the patent term adjustment application fee is required per 37 CFR 1.18(e).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[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).

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,449,482
Issued: November 11, 2008
Application No. 10/900,705
Filed: July 28, 2004
Dkt. No.: 19128-008001

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.181 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 927 days. The petition is deemed timely, having been filed within two months of the mail date of the decision on petition mailed August 31, 2009. See, 37 CFR 1.181(f).

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 927 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 927 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,449,482 B2

DATED : **November 11, 2008** **DRAFT**

INVENTOR(S) : Cheng, 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 455 days

Delete the phrase "by 455 days" and insert – by 927 days--

SPE: M. Yu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/23/07

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/900,708 Patent No.: 7134553

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: _____

Mickey Yu
Supervisory Patent Examiner
~~Group 3760~~
Art Unit

SPE

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Joseph A. Calvaruso
CHADBOURNE & PARKE LLP
30 Rockefeller Plaza
New York, NY 10112

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APR 27 2006

OFFICE OF PETITIONS

In re Application of Atkin et al. :
Application No. 10/900,710 :
Filing Date: July 28, 2004 :
Attorney Docket No. 17178.005 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed February 22, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed on August 3, 2005.

A response to the Office action could have been timely submitted as late as February 3, 2006, with proper payment for an extension of time.

Petitioner mailed a response on February 2, 2006, in compliance with 37 CFR 1.8 and 37 CFR 1.10.

The response was physically received by the USPTO on Monday, February 6, 2006.

The response was not scanned into the electronic file wrapper prior to February 9, 2006.

A Notice of Abandonment was mailed on February 9, 2006.

Discussion:

Petitioner contends, and has shown, a reply was timely filed in response to the August 3, 2005 Office action.

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

Technology Center Art Unit will be informed of the instant decision and the examiner will consider the February 2, 2006 papers 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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Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Tao Jiang et al.	:	
Application No. 10/900,718	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 45198.00008.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), December 2, 2005.

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

A review of the file record indicates that the power of attorney to C. Amy Smith and all attorneys/agents of record has been revoked by the assignee of the patent application on January 25, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Saliwanchik, Lloyd & Saliwanchik
A Professional Association
P.O. Box 142950
Gainsville, FL 32614

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

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OFFICE OF PETITIONS

In re Application of :
David Rado, et al. :
Application No. 10/900,726 :
Filed: July 28, 2004 :
Attorney Docket No. 64283(40353) :

ON PETITION

This is a decision on the petition, filed April 16, 2009, to revive the above-identified application under 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the final Office action mailed June 12, 2008. A Notice of Abandonment was mailed on March 24, 2009. In response, on April 16, 2009, a petition under 37 CFR 1.137(b) was filed, including (1) a Notice of Appeal and fee and (2) an Appeal Brief and fee.

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 Technology Center AU 1794 for consideration of the response filed April 16, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Paul J. Farrell
DILWORTH & BARRESE, L.L.P.
333 Earle Ovington Boulevard
Uniondale, New York 11553

In re Application of	:	
Gennady I. KLEYHAN, et al.	:	DECISION
Application No. 10/900,731	:	ON PETITION
Filed 28 July 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 0002-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 06 October 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply completely in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed 04 October 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 05 December 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 four sheets of formal drawings, (2) the petition fee for a small entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 04 October 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

Wan Laymon
Petitions Examiner
Office of Petitions
NNH/WL:hn N.H.

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Masakazu Shirota	: DECISION ON REQUEST FOR
Patent Number	: 7584275	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,794	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD, SUITE 1400
COSTA MESA, CA 92626

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In re Application of
Koushik DUTTA
Application No. 10/900,807
Filed: July 28, 2004
Attorney Docket No. **28814-0200**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 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 Ketan S. Vakil on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 12, 2009 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: **KOUSHIK DUTTA**
1290 N. HANCOCK STREET, SUITE 200
ANAHEIM, CA 92807

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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Thomas Overes	: DECISION ON REQUEST FOR
Patent Number	: 7648510	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1514** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/900,822	07/28/2004	Bruce Johnson	200310329-2	7589

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SINGH, SATWANT K

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
07730/2004 AADOF01  00000012 082025   10900822
02 FC:1201       1118.00 CR
03 FC:1202        594.00 CR
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FORM PET651G (Rev. 08/07)

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of	:	
Juergen Brendel	:	
Application No.: 10/900,840	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No.: 2222.7780001	:	

This is a decision on the petition, filed May 30, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2131 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Ryan E. Marx et al :
Application No. 10/900,846 : DECISION GRANTING PETITION
Filed: July 28, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 58189US004 :

This is a decision on the petition, filed May 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1713 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
Frances Hicks
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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Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

Mail Date: 04/21/2010

Applicant	: Melissa L. Vass	: DECISION ON REQUEST FOR
Patent Number	: 7613500	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ISABELLE R. MCANDREWS
44091 NOBEL DRIVE
FREMONT, CA 94538

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Zuo Yi et al :
Application No. 10/900,854 : NOTICE
Filed: July 27, 2004 :
Attorney Docket No. PI-025

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

ISABELLE MCANDREWS
PEAK INTERNATIONAL
38507 CHERRY STREET, UNIT G
NEWARK, CA 94560-4743

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Zuo Yi et al	:	
Application No. 10/900,854	:	NOTICE
Filed: July 27, 2004	:	
Attorney Docket No. PI-025		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

COPY MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Christian L. BELADY, et al.	:	
Application No. 10/900,862	:	DECISION ON PETITION
Filed: July 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **200309294-1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected drawings on or before February 13, 2009, as required by the Notices of Allowance/Allowability, mailed November 13, 2008. Accordingly, the date of abandonment of this application is February 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, the publication fee of $300, and corrected drawing(s); (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0406060

DATE : April 6, 2006

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6,966,118 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
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:

Changes pertaining to claims 1 and 3 have not been entered. The changes on the Certificate of Correction form change the scope of these claims. These changes would require further consideration.

G. BRADLEY BENNETT
PRIMARY EXAMINER
AU 2859

SPE: Diego F.F. Gutierrez **Art Unit** 2859

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

3/14/06
(Date of Deposit)

Anthony P. Curtis, Ph.D., Reg. No. 46,193
Name of applicant, assignee, or Registered Representative

Signature

3/14/06
Date of Signature

OIPE IAP53 MAR 16 2006 PATENT & TRADEMARK OFFICE

Our File No. 9281-4863

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Tadashi Sano	
Patent No.: 6,966,118 B2	Examiner: George B. Bennett
Issue Date: November 22, 2005	Group Art Unit: 2859
Serial No.: 10/900,892	
Filing Date: July 28, 2004	
For: ABSOLUTE ANGLE DETECTING DEVICE	

Enter in part 4.6.06

Certificate
MAR 20 2006
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION

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

Attn: Certificate of Corrections Branch

Sir:

Please issue a Certificate of Correction for the above-identified patent to correct the errors listed on the accompanying PTO Form 1050. This request is being made pursuant to 35 U.S.C. § 254 and 35 U.S.C. § 255, since the errors comprise minor or typographical errors by the applicant or the PTO.

03/17/2006 MWOLDGE1 00000120 6966118
01 FC:1811 100.00 OP

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

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

Mail Date: 04/23/2010

Applicant	: Petre Dini	: DECISION ON REQUEST FOR
Patent Number	: 7606895	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/900,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

570-28 PCT/US/RES

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

OIPE IAP67
AUG 29 2008
PATENT & TRADEMARK OFFICE

APR 28 2008

In re Application of	:	
Houthoff, Reedijk, Jelsma, Heetebrij &	:	NOTICE OF WITHDRAWAL
Voklers et al	:	FROM ISSUE
Serial No. 10/900902	:	UNDER 37 CFR 1.313(b)
Filed: 07/28/2004	:	
For: METHODS FOR LABELING NUCELOTIDES,	:	
LABELED NUCLEOTIDES AND USEFUL	:	
INTERMEDIATES	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

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 Ram Shukla at (571) 272-0735.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John L. LeGuyader
Director, Technology Center 1600

MAY - 2 2008

Irving N. Feit, Esq.
Hoffman & Baron LLP
6900 Jericho Turnpike
Syosset, NY 11791

APPLICANT: Hendrick Jan Houthoff, et al
SERIAL NO.: 10/900,902
FILED: July 28, 2004
GROUP ART UNIT: 1634
EXAMINER: Bradley L. Sisson
DOCKET: 570-28 PCT/US/RES
USPTO CUSTOMER#: 23869

Certificate of Mailing Dated: September 13, 2007

The U.S. Patent and Trademark Office date stamp will acknowledge receipt of the following:

(X) Issue Fee and Transmittal (2x)
(X) Authorization to Charge
Deposit Account #08-2461
in the amount of $730.00

APPLICANT: Hendrick Jan Houthoff, et al
SERIAL NO.: 10/900,902
FILED: July 28, 2004
GROUP ART UNIT: 1634
EXAMINER: Bradley L. Sisson
DOCKET: 570-28 PCT/US/RES
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(X) Authorization to Charge
Deposit Account #08-2461
in the amount of $730.00

HOFFMANN & BARON, LLP
RJB/kjd (0061)
127859

HOFFMANN & BARON, LLP
RJB/kjd (0061)
127859

OIPE
SEP 17 2007
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

570-28 PCT/US/RES

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P.O. Box 1450
Alexandria, VA 22313-1450
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OIPE IAP67
AUG 29 2008
PATENT & TRADEMARK OFFICE

APR 28 2008

In re Application of	:	
Houthoff, Reedijk, Jelsma, Heetebrij &	:	NOTICE OF WITHDRAWAL
Voklers et al	:	FROM ISSUE
Serial No. 10/900902	:	UNDER 37 CFR 1.313(b)
Filed: 07/28/2004	:	
For: METHODS FOR LABELING NUCELOTIDES,	:	
LABELED NUCLEOTIDES AND USEFUL	:	
INTERMEDIATES	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

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 Ram Shukla at (571) 272-0735.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John L. LeGuyader
Director, Technology Center 1600

MAY - 2 2008

Irving N. Feit, Esq.
Hoffman & Baron LLP
6900 Jericho Turnpike
Syosset, NY 11791

APPLICANT: Hendrick Jan Houthoff, et al
SERIAL NO.: 10/900,902
FILED: July 28, 2004
GROUP ART UNIT: 1634
EXAMINER: Bradley L. Sisson
DOCKET: 570-28 PCT/US/RES
USPTO CUSTOMER#: 23869

Certificate of Mailing Dated: September 13, 2007

The U.S. Patent and Trademark Office date stamp will acknowledge receipt of the following:

(X) Issue Fee and Transmittal (2x)
(X) Authorization to Charge
Deposit Account #08-2461
in the amount of $730.00

APPLICANT: Hendrick Jan Houthoff, et al
SERIAL NO.: 10/900,902
FILED: July 28, 2004
GROUP ART UNIT: 1634
EXAMINER: Bradley L. Sisson
DOCKET: 570-28 PCT/US/RES
USPTO CUSTOMER#: 23869

Certificate of Mailing Dated: September 13, 2007

The U.S. Patent and Trademark Office date stamp will acknowledge receipt of the following:

(X) Issue Fee and Transmittal (2x)
(X) Authorization to Charge
Deposit Account #08-2461
in the amount of $730.00

HOFFMANN & BARON, LLP
RJB/kjd (0061)
127859

HOFFMANN & BARON, LLP
RJB/kjd (0061)
127859

OIPE
SEP 17 2007
PATENT & TRADEMARK OFFICE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-9-2010

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/900904 Patent No.: RE41,267

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

What's with these claims?

Eva James
Certificates of Correction Branch
703-756-1583 _____

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: Claims are corrected based on Re 41,267 E

SPE

AU 3752
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN R. ROSS
P.O. BOX 2138
DEL MAR CA 92014

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 10/900,933	:	ON PETITION
Filed: July 27, 2004	:	
Title: FRAME-SHUTTERED CMOS IMAGE SENSOR WITH SIMULTANEOUS ARRAY READOUT	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 18, 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 response has been accepted as having been unintentionally delayed.

This matter is being referred to 2800 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/26/2010

Applicant	: Ravikumar Pragada	: DECISION ON REQUEST FOR
Patent Number	: 7574595	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/900,941	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1411** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, SUITE 1300
ONE SOUTH MAIN STREET
DAYTON, OH 45402-2023

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APR 11 2006
OFFICE OF PETITIONS

In re Application of Kent W. Kahle Application No. 10/900,960 Filed: July 28, 2004 Attorney Docket No. SPC 0470 PA/40719.803	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 12, 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 April 25, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 20, 2006, has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 2859 for appropriate action on the reply received March 1, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

FILE COPY

PSPWR.031A

PATENT

OIPE JC11 NOV 02 2004 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	:	Gross, et al.
App. No.	:	10/900,966
Filed	:	July 28, 2004
For	:	SOLAR CONCENTRATOR ARRAY WITH GROUPED ADJUSTABLE ELEMENTS
Group Art Unit	:	1753 Undocketed
Examiner	:	Unknown
Customer N0.	:	20,995

Confirmation Number: 7552

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450, on

29 oct 04
(Date)

Kyle F. Schlueter No. 54,912

ETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

PETITION TO MAKE SPECIAL

Sir:

Applicants respectfully request that the above-captioned application be accorded "special" status under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, paragraph VI. A verified statement by Applicant explaining how the invention materially contributes to both (A) the discovery or development of energy resources, and (B) the more efficient use and conservation of energy resources, is attached hereto. Under 37 C.F.R. § 1.102(c), no fee is required for this petition. However, please charge any fees required to Deposit Account 11-1410. A duplicate copy of this sheet is enclosed.

Respectfully submitted,
KNOBBE MARTENS OLSON & BEAR LLP

Dated: 29 oct 04

By: Kyle F. Schlueter, Attorney of Record
Registration No. 54,912
Customer No. 20,995
(310) 551-3450

L:\DOCS\KFS\PASADENA POWER\031A\PSPWR.031A PETITION TO MAKE SPECIAL.DOC
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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 BLAINE BROOKS, P.C.
P.O. BOX 1630
SIMI VALLEY, CA 93062-1630

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
William Gross et al	:	
Application No. 10/900,966	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. PSPWR.031A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2005.

The request is **APPROVED**.

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

The request was signed by Michael B. Brooks on behalf of all attorneys of record who are associated with Customer No. 24507.

Petitioner request withdrawal as attorney because of a "Mutual Agreement Between Client and Practitioner." The statement is being construed as one of the mandatory reasons enumerated in 37 CFR 10.40, namely the practitioner's client knowingly and freely assents to termination of the employment.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Andrew S. Naglestad
I DEALAB
130 W. Union St.
Pasadena, CA 91103

cc: Dr. Michael Brooks, Esq.
5010 N. Parkway Calabasas
Suite 104
Calabasas, CA 91302

cc: Michael Brooks
Michael Blaine Brooks, P.C.
1445 East Los Angelas Avenue
Suite 206
Simi Valley, CA 93065

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/900,969	07/28/2004	Dave Nicolson	14393.74	7531

22913 7590 06/30/2008
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER
VARGOT, MATHIEU D

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
06/30/2008	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.

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. 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	10/900,969
Filing Date	July 28, 2004
First Named Inventor	Dave Nicolson
Art Unit	1791
Examiner Name	Mathieu D. Vargot
Attorney Docket Number	14393.74

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

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 022913

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:

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

Approved
Jacqueline M. Stone, Director
Technology Center 1700
6-30-08

OR

[x] Firm *or* Individual Name	Simon K. Hodson, President Starstone, LLC				
Address	55 Castilian Drive				
City	Goleta	State	CA	Zip	93117
Country	US				
Telephone	(805) 563-7500	Email			

Signature			
Name	John M. Guynn	Registration No.	36,153
Date	May 9, 2008	Telephone No.	(801) 533-9800

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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P.O. Box 1450
Alexandria, VA 22313-1450
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Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
TREMBLAY et al.	:	
Application No. 10/900,976	:	DECISION ON PETITION
Filed: 07/28/2004	:	
Attorney Docket No. 535.0004USU	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2006.

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; 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 3765 for appropriate action by the Examiner in the normal course of business on the reply received March 12, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/24/04

Richard E. Gamache
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/901003 received on 09/17/04 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/901,008	07/27/2004	1634	1474	03012	10	41	5

CONFIRMATION NO. 7656

CORRECTED FILING RECEIPT

OC000000015053284

07278
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

Date Mailed: 01/28/2005

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)

Naigong Zhang, Arlington, VA;
Chen Zeng, Rockville, MD;
Ned S. Wingreen, Princeton, NJ;

Assignment For Published Patent Application

NEC Laboratories America, Inc., Princeton, NJ

Power of Attorney: The patent practitioners associated with Customer Number **20844**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/501,547 09/09/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/901,008

Projected Publication Date: 03/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Fast accurate evaluation of solvent exposure

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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MOETTELI & ASSOCIES SARL
CASE POSTALE 486
GENEVA CH-12-11 CH SWITZERLAND

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OCT 0 4 2005

OFFICE OF PETITIONS

Applicant: Lechot
Appl. No.: 10/901,012
Filing Date: July 28, 2004
Title: HOLLOW SMALL DIAMETER TOOL HOLDER FOR SURGICAL USE
Attorney Docket No.: PUS-P001-038
Pub. No.: US 2005/0131395 A1
Pub. Date: June 16, 2005

This is a decision on the request for a "Corrected Notice of Publication of Application, filed on August 25, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the Notice of Publication of Application be corrected because the correspondence address on the notice is incorrect.

The Notice of Publication cannot be reprinted with the different address as requested, as there is not a method to regenerate the Notice. The notice was correctly printed with the correspondence address of record. If applicant wants to change the correspondence, he should make a request in writing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 2 2 2004

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

In re Application of
Steven Ochs
Application No. 10/901,044
Deposited: July 29, 2004
Attorney Docket No.: 22248-00001-US1
Title: MULTI-LAMINATE THREE DIMENSIONAL DISPLAY AND METHODS THERFORE

ON PETITION

This is a decision on the petition to accord a filing date submitted November 12, 2004, requesting that the above-identified application be accorded a filing date of July 29, 2004.

Application papers in the above-identified application were deposited on July 29, 2004. However, on October 22, 2004 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 1 sheet of drawings, including figure 1 and the present petition were filed on November 12, 2004. The petition contends that the application as filed contained 1 sheet of drawings and was described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " 1 drawing (1 sheet)" on July 29, 2004.

Applicant's postcard receipt is prima facie[2] evidence that the drawing was received on July 29, 2004, but no drawings are

---

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

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

present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 1 sheet of drawings, including figure 1 was received on July 29, 2004, as shown in counsel's file, and later misplaced in the Office.

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

Since the original drawings cannot be located in the Office, the copy of the drawing supplied on November 12, 2004, will be used for processing and examination purposes.

The office acknowledges receipt of the declaration.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of July 29, 2004**, using the 1 sheet of drawings supplied on November 12, 2004.

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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Commissioner for Patents
United States Patent and Trademark Office
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JUL 2 0 2007

OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of	:	
Yung et al.	:	
Application No. 10/901,079	:	DECISION ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. 14616.0015-C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before January 29, 2006, as required by the Notice Regarding Drawings, mailed November 29, 2006. Accordingly, the date of abandonment of this application is January 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 corrected formal drawings, (2) the petition fee of $1,500.00; 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). Since the period for reply to the Notice Regarding Drawings was not extendable, the extension of time fee submitted with the petition on May 14, 2007 is unnecessary and will be credited to petitioner's deposit account 19-4293.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/24/2010

Applicant	: Satoshi Takahashi	: DECISION ON REQUEST FOR
Patent Number	: 7656869	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/901,107	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1041** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

TWP

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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

YOUNG & THOMPSON
745 SOUTH 23RD STREET, 2ND FLOOR
ARLINGTON, VA 22202

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JUL 15 2002
OFFICE OF PETITIONS

In re Application of
Thomas L. Brandt et al
Application No. 09/974,809
Filed: October 12, 2001
For: PROCESS AND APPARATUS FOR DECORATING PACKAGES WITH CONVEX SURFACES

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

COPY

This is in response to the petition under 37 CFR 1.47(a), filed June 20, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

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

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NEAL D. TURNER
RD1, BOX 67C
BRACKNEY, PA 18812

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JUL 1 5 2002

OFFICE OF PETITIONS

In re Application of
Thomas L. Brandt; Daniel N. Wilkens; Neal D. Turner; Harold N. Turner
Application No. 09/974,809
Filed: October 12, 2001
For: PROCESS AND APPARATUS FOR DECORATING PACKAGES WITH CONVEX SURFACES

Dear Mr. Turner:

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 in 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 Irvin Dingle at (703) 306-5684. 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).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Young & Thompson
745 South 23rd Street, 2nd Floor
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/21/2010

Applicant	: Woo-sung Shim	: DECISION ON REQUEST FOR
Patent Number	: 7650043	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/901,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1106** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Yanashima et al.	:	DECISION ON PETITION
Application No. 10/901,153	:	
Filed: July 29, 2004	:	
Atty Docket No. 020265B	:	

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION," filed June 13, 2005. Petitioners request that the Office accord the above-identified application a filing date of July 29, 2004, with page 123 considered part of the original application disclosure.

Application papers in the above-identified application were filed on July 29, 2004. However, on May 29, 2005, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, page 123 of the specification (description and claims) appeared to have been omitted.

On June 13, 2005, applicants timely responded with the instant petition. Applicants assert that the application as filed included page 123; however, the page was separated from the application in the US Patent and Trademark Office. In support thereof, applicants submitted a copy of their return postcard along with a copy of their application transmittal.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. However, a 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. See MPEP 503.

Petitioner's evidence has been considered, but not found persuasive that page 123 was present in the application on filing. A review of petitioner's return postcard receipt reveals that: 1) it was date stamped as received in the USPTO on July 29, 2004; 2) it identifies the items being filed, including "136 p. spec.; 37 drwgs" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard.

The application file is the Official record of what was received in the Office in an application. A review of the instant application file reveals that page 123 of the specification was not among the papers filed on July 29, 2004, as page 123 is not present in the application. Petitioner's evidence does not overcome this conclusion. The transmittal is not persuasive evidence of the papers received in the Office, as it is not reviewed by the Office on receipt of the application for verification of the contents of the application.

The postcard supports a conclusion that 136 pages of specification were received in this application by the Office on July 29, 2004. However, a comparison of the papers considered received in the Office on July 29, 2004 reveals that these papers constitute 136 pages, <u>without</u> page 123 of the specification. Specifically, the original application disclosure includes 136 pages, counting pages 1-122, 123-136 of the specification and the unnumbered page containing the

abstract. It is noted that the postcard does not separately identify the abstract as a component of the application as filed. In view thereof, the application cannot be accorded a filing date of July 29, 2004, with page 123 as a part of the original application disclosure.

Accordingly, the petition is **DISMISSED**.

Nonetheless, it is noted that the application transmittal stated that the entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

A preliminary amendment to amend the specification to include page 123 should be filed prior to the first Office action on the merits to avoid further delay in the prosecution of this application. The examiner will consider this amendment.

The application with a filing date of July 29, 2004, is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, using the papers received in the Office on that date.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of
Kia Silverbrook et al
Application No. 10/901,154
Filed: July 29, 2004
Attorney Docket No. NPP047US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed October 8, 2008, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

It is noted that the signature of the applicants was provided on page 3 of the 4 pages submitted October 8, 2008 and that the required statement under 37 CFR 1.78 was located on page 4. Accordingly, the signatures on page 3 are being construed as applying to all 4 pages of the document. In the event such is not the case, petitioner must notify the Office.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/901,154	07/29/2004	2625	1070	NPP047US	20	1

CONFIRMATION NO. 8881

CORRECTED FILING RECEIPT

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

OC000000034297072

Date Mailed: 01/29/2009

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)

Kia Silverbrook, Balmain, AUSTRALIA;
Paul Lapstun, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/831,242 04/26/2004 ABN
which is a CON of 09/575,155 05/23/2000 PAT 6,727,996

Foreign Applications

AUSTRALIA PQ0559 05/25/1999
AUSTRALIA PQ1313 06/30/1999
AUSTRALIA PQ3632 10/25/1999
AUSTRALIA PA3632 10/25/1999

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 10/901,154**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTERACTIVE PRINTER FOR PRINTING A CODED INTERFACE

Preliminary Class

358

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Noriyuki Kurakami, et al.
Application No. 10/901,195
Filed: July 29, 2004
For: **METHOD OF RAMPING UP OUTPUT LEVEL OF POWER AMPLIFIER OF RADIO COMMUNICATION SYSTEM, COMMUNICATION SEMICONDUCTOR INTEGRATED CIRCUIT, AND RADIO COMMUNICATION SYSTEM**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on January 25, 2007, requesting that the shortened statutory period for reply set forth in the Office communication mailed on January 19, 2007 be reset and restarted.

Petitioner states that the non-final Office action relied upon two references i.e., Rozenblit et al. (U.S. Patent Publication No. 2004/0248528 A1) and Masuda (U.S. Patent Publication No. 2003/0134654 A1 , but that the Rozenblit et al. and Masuda references were not listed on either an 892 form by the examiner or on form 1449 submitted by applicant.

MPEP §710.06 [R-2] Situations When Reply Period Is Reset or Restarted, states in part:

> Where the citation of a reference is incorrect or an Office action contains some other defect and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

37 C.F.R. § 1.104 Nature of examination, states in part:

(a) Examiner's action ...

> (2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution. [emphasis added]

Although current Office practice is not to provide copies of U.S. Patents or U.S. Publications with Office communications, and even though examiner did indicate the U.S. Patent Publication Numbers of the Masuda and Rozenblit et al. references that were being relied upon in the Office action, the examiner did not list these reference on the citation of art (i.e., Notice of Reference Cited, form 892) which accompanied the action. Therefore, the Office action mailed January 19, 2007 was deficient.

Accordingly, the petition is **GRANTED.**

Given that the error was brought to the attention of the Office within 1 month of the mail date of the action, in accordance with MPEP §710.06, the time period will be reset and restarted with the re-mailing of the corrected Office action.

The application record will be forwarded to the examiner to correct the Notice of References Cited (form 892), specifically listing the Rozenblit et al. and Masuda references, in addition to the previously cited references. From there, the application will be forwarded to the Technology Center's technical support staff for remailing the Office action with the corrected Notice of References Cited prepared by the examiner.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20037

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JUL 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Barbour et al.	:	
Application No. 10/901,231	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. A8779	:	

This is a decision on the petition under 37 CFR §1.102(d), filed May 16, 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 3765 for expedited prosecution.

for David Bucci
Petitions Examiner
Office of Petitions

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JAN 19 2010

In re Application of
Woon-Jae Chung et al.
Application No. 10/901,247
Filed: July 29, 2004
Attorney Docket No. **Q81025**

DECISION ON PETITION
UNDER § 1.183

This is a decision in response to the petition filed November 23, 2009, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

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

The above-identified application was filed on July 29, 2005, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration was executed by all the joint inventors except Rajesh Patharkar. Applicants have filed the instant petition to have the 37 CFR § 1.131 declaration accepted as signed by all inventors on their own behalf and on behalf of non-signing inventor RajeshPatharkar.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR § 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that joint inventor Patharkar sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Patharkar's signature on the 37 CFR § 1.131 declaration. The declaration presented is signed by the remaining joint inventors however, applicants have not shown that a bona fide effort was made to reach or locate inventor Patharkar to present the 37 CFR § 1.131 declaration and supporting documentation.

Petitioners have argued that the letter of October 29, 2009 containing the Declaration under 37 CFR 1.131, was mailed to the last known address of joint inventor Patharkar but said letter was stamped as undeliverable on October 30, 2009 and returned to the sender. The petition does not however include any evidence of additional efforts employed to locate Mr. Patharkar. In view of the evidence presented, petitioners have not provided evidence that diligent efforts have been made to locate non-signing inventor Patharkar and thus, under the circumstances, it is concluded that petitioner has not demonstrated that this is an extraordinary situation, warranting waiver of the rules.[1]

Before the Declaration under 37 CFR 1.131 can be entered, petitioner must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the **additional efforts** to locate Mr. Patharkar, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Deposit account no. 19-4880 has been charged in the amount of $400 for the petition fee.

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

By mail: Mail Stop Petition
Commissioner for Patents

[1] MPEP 409.03(d).

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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THOMAS A. BEATON
BAKER BOTTS LLP
2001 ROSS AVE.
SUITE 600
DALLAS, TX 75201-2980

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Strain, et al :
Application No. 10/901,256 :
Filed: July 26, 2004 :
Attorney Docket No.

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 Office of Petitions Staff at (703) 305-9285.

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

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of :
James M. CALDWELL et al. :
Application No. 10/901,262 : ON PETITION
Filed: July 27, 2004 :
Attorney Docket No. 130714 (07783-0183) :

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 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 Corrected Application Papers mailed October 6, 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 December 7, 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 replacement drawings; (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 Corrected Application Papers of October 6, 2004 is accepted as having been unintentionally delayed.

The requested replacement filing receipt is enclosed.

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

Encl: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

June 21, 2006

FILE COPY

Patent No. : 7,008,938 B2
Ser. No. : 10/901263
Inventor(s) : Ohmoto, et al.
Issued : March 7, 2006
Title : **BENZENE-FUSED HETERORING DERIVATIVES AND PHARMACEUTICAL AGENTS COMPRISING THE SAME AS ACTIVE INGREDIENT**
Docket No. : **Q81999**

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.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

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

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2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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SEP 15 2006
OFFICE OF PETITIONS

In re Patent No. 7,008,938	:	
Issue Date: March 7, 2006	:	
Application No. 10/901,263	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. Q81999	:	

This is a decision on the petition filed June 5, 2006, which is being treated as a petition under 37 CFR 1.181, requesting issuance of a certificate of correction with no fee to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Ono Pharmaceutical Co., Ltd." Petitioner states that, at the time the issue fee was paid on February 15, 2003 [sic, 2005], the above-noted assignee's name was correctly typed on the PTOL-85 form. In support, petitioner has provided a copy of the form asserted to have been submitted at the time of payment of the issue fee.

A review of Office records indicates that the form asserted to have been submitted at the time of payment of the issue fee is not of record in the file. It appears that a form was completed within the Office which contains Nokia Corporation as the assignee. From the record, it cannot be concluded whether a completed Part B – Fee(s) Transmittal form was in fact received in the USPTO and lost after receipt or whether only the fee was submitted without a completed Part B – Fee(s) Transmittal form. Accordingly, petitioner should submit evidence, such as a stamped return postcard, which evidences receipt in the USPTO of a Part B-Fee(s) Transmittal form.

If petitioner cannot supply the evidence required to establish receipt in the USPTO of the Part B form, petitioner may wish to proceed under the provisions of 37 CFR 3.81(b) and pay the required processing fee of $130 and $100 certificate of correction fee.

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 on petition should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

APR 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,008,938	:	
Issue Date: March 7, 2006	:	
Application No. 10/901,263	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. Q81999	:	

This is a decision on the renewed petition filed September 23, 2009, under 37 CFR 1.181 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**.

Petitioner states that the correct assignee's name is Ono Pharmaceutical Co. and that the assignee's name was correctly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee, submitted on February 15, 2005. 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.

Petitioner should note that a review of the record indicates that an assignment for Nokia Corporation is incorrectly recorded in the parent application which inadvertently became printed on the letters patent. However, since the assignee's name set forth on the Fee(s) Transmittal form PTOL-85(b, submitted with the petition herein is misspelled as Ono Pharmaceutial Co., LTD instead of Ono Pharmaceutical Co., LTD, the petition under 3.81(b) is necessary.

---

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Office assignment records reflect that Ono Pharmaceutical is the assignee of record. 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.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. 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

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

Paper No. None

Gary F. Wang, Esq.
Suite 302
201 South Lake Avenue
Pasadena CA 91101

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of
Luke Yu and Henry Yu
Application No. 10/901,265
Filed: July 27, 2004
Attorney Docket Number: 20407
Title: CONTROLLABLE BOARD-SPECTRUM HARMONIC FILTER (CBF) FOR ELECTRICAL POWER SYSTEMS

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on August 11, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed October 5, 2004, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 6, 2004. A Notice of Abandonment was mailed on June 10, 2005.

With the present petition, Petitioner has submitted the petition fee, a declaration which has been signed by each of the two joint inventors, the surcharge associated with the late submission of the same, and the proper statement of unintentional delay.

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.

As such, the petition is **GRANTED**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OCT 14 2008

OFFICE OF PETITIONS

In re Patent No. 7,269,398 :
Issued: September 11, 2007 :
Application No. 10/901,288 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. 16359-012001/763/SM/KK :

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 Publishing Division for issuance of a duplicate Letters Patent.

A courtesy copy is being mailed to the address listed on the petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIVISION NEWPORT
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BLDG 112T
NEWPORT, RI 02841

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APR 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Robert Kuklinski	:	
Application No. 10/901,312	:	ON PETITION
Filed: July 22, 2004	:	
Attorney Docket No. 84045	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2006 and March 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before March 13, 2006. Accordingly, this application became abandoned on March 14, 2006.

Please note, since the $120.00 extension of time submitted with the petition was subsequent to the maximum period for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 14-0590.

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

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

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

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DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
2240 B ST., RM. 100
WPAFB, OH 45433-7109

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of:	:	
Ebel et al.	:	
Application No. 10/901,314	:	DECISION GRANTING
Filed: May 10, 2002	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137
MEMS RF SWITCH INTEGRATED PROCESS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed October 6, 2004. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on December 7, 2004. A Notice of Abandonment was mailed June 10, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the October 6, 2004 Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091120

DATE : September 19, 2007

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7,145,213

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The original specs as well as the abstract/title, for 10/901,315 and 10/901,314 were switched in the beginning as can be seen in the upper right corner of first page of the 7/27/04 spec (see AFD 729(referring to 901314) is placed in 901315 and vice versa) . The changes are approved.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of :
Ebel et al. :
Application No. 10/901,315 :
Filed: July 27, 2004 :
Attorney Dkt. No.: AFD 685 :
Title of Invention: MEMS RF Switch :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 20, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on October 5, 2004. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 6, 2004. A Notice of Abandonment was mailed on June 10, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the replacement drawings.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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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Alexandria, VA 22313-1450
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JAN 25 2005

Paper No. 100604

RUSSELL E. HATTIS
1640 JASMINE COURT
HIGHLAND PARK, IL 60035

In re Application of:	:	
MYER HECHT	:	DECISION ON PETITION
Serial No.: 10/901,317	:	TO MAKE SPECIAL
Filed: July 28, 2004	:	
Attorney Docket No.: HECHT P004	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 17, 2004 and supplemental petition filed August 30, 2004 to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 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 petitions include a declaration from the inventor, Myer Hecht, 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 Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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LARRY W. MANN
5328 REIMERS RD.
SPICEWOOD, TX 78669

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of	:	
MANN	:	
Application No.: 10/901,320	:	DECISION ON PETITION
Filing Date: July 28, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 12, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 2005.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the proposed response would not place the cased in condition for allowance. See the attached Advisory Action (Form PTOL-303).

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 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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Advisory Action (Form PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/901,320	Applicant(s) MANN, LARRY WAYNE	
	Examiner Sherman D. Basinger	Art Unit 3617	

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

THE REPLY FILED 29 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *4 and 5*.
   Claim(s) rejected: *1-3,6,8,11,19 and 20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

Sherman Basinger
Primary Examiner
Art Unit: 3617

Continuation of 3. NOTE: claims 1-4, 6 and 8 as filed December 29, 2006 are rejectable under the second paragraph of 35 U.S.C. 112 in that "the third end of the tee" in line 17 of claim 1 has no clear antecedent and in that "the injection piping" of claims 2, 3, 6 and 8 has no clear antecedent. as such new issues that would require further consideration are raised and the application is not placed in better form for appeal.

Continuation of 13. Other: the substitute specification and the replacement sheet of drawings filed December 29, 2006 would be approved for entry if the amendment filed December 29, 2006 were approved for entry.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RICK B. YEAGER
ATTORNEY AT LAW
10805 MELLOW LANE
AUSTIN, TX 78759

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of MANN Application No.: 10/901,320 Filing Date: July 28, 2004 Attorney Docket No.: (none)	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(B)

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

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 12, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 2005.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the proposed response would not place the cased in condition for allowance. See the attached Advisory Action (Form PTOL-303).

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 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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENTS: Advisory Action (Form PTOL-303)
Notice of Non-Compliant Amendment (Form PTOL-324)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/901,320	MANN, LARRY WAYNE	
	Examiner	Art Unit	
	Sherman D. Basinger	3617	

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

THE REPLY FILED 07 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Sherman Basinger
Primary Examiner
Art Unit: 3617

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/901,320	MANN, LARRY WAYNE	
	Examiner	Art Unit	
	Sherman D. Basinger	3617	

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

The amendment document filed on 7 April 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *Applicant used withdrawn as opposed to canceled as the status identifier for the claims canceled.*.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf .

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

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RICK B. YEAGER
ATTORNEY AT LAW
10805 MELLOW LANE
AUSTIN, TX 78759

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
MANN	:	
Application No.: 10/901,320	:	DECISION ON PETITION
Filing Date: July 28, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 1, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 12, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 2005.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the proposed response would not place the cased in condition for allowance. See the attached Advisory Action (Form PTOL-303).

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 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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENTS: Advisory Action (Form PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/901,320	MANN, LARRY WAYNE	
	Examiner	Art Unit	
	Sherman D. Basinger	3617	

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

THE REPLY FILED 01 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *4 and 5*.
   Claim(s) rejected: *1-3,6,8,11,19 and 20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Sherman Basinger/
Sherman Basinger, PE
Art Unit: 3617

Continuation of 3. NOTE: In the final rejection mailed September 12, 2005 it was stated that claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. It appears that in the response filed June 1, 2007 applicant attempted to rewrite claim 4 into independent form; however, applicant failed to include all of the limitations of claim 4 as filed August 23, 2005. Applicant failed to include the limitation of "the third tee section may pivot away from the boat". Absent this limitation, claim 1 as filed June 1, 2007 is a claim of a broader scope that claim 4 filed August 23, 2005. This raises issues which require further consideration and or search..

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RICK B. YEAGER
ATTORNEY AT LAW
10805 MELLOW LANE
AUSTIN, TX 78759

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
MANN	:	
Application No.: 10/901,320	:	DECISION ON PETITION
Filing Date: July 28, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 12, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed September 12, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3617 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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4/13/07

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of:
HODOWANEC, MARK
Serial No.: 10/901,332
Filed: Jun. 28, 2004
Docket: 2003P09184US01 (1009-095)
Title: SYSTEM AND METHOD FOR MECHANICAL MOUNTING OF A DEVICE ONTO A SHAFT

DECISION ON PETITION

This is a decision on the petition filed on Aug. 24, 2006 seeking reversal of the objection to the specification and to the claims. The petition is being considered pursuant to 37 CFR 1.181.

The petition is **DISMISSED**.

In the petition, the petitioner requests a review of the examiner's objection to the specification and the claims. The examiner objected to the specification and the claims because applicant referred to the grooves (405,505,605,805) as being a "radial groove" rather than a "circumferential groove". Petitioner believes that the objection to the specification and claims is in error and requests review and relief therefrom.

The record shows that:

1) On Feb. 17, 2006, the examiner issued a non-final Office action and objected to the specification and claims because applicant refers to the groove (405,505,605,805) as a radial groove rather than a circumferential groove.
2) On May 10, 2006, the applicant filed an amendment to the claims and argued that the phrase "radial groove" is implicitly defined in the specification and that because applicant is his own lexicographer, the definition implied in the application for "radial groove" must control examination of the claims that recite this phrase.
3) On June 27, 2006, the examiner issued a final Office action and maintained the objection to the specification and claims because the examiner maintains that "radial groove" should be "circumferential groove".

4) On Aug. 24, 2006, the applicant filed an after final amendment and repeated the argument that applicant is entitled to be his own lexicographer and that the definition implied in the application for "radial groove" must control examination.
5) On Aug. 24, 2006, the present petition seeking reversal of the objection to the specification and claims was filed.

Discussion and Analysis

Relevant portions of MPEP 2173.01 states:

> A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as **>**any special meaning assigned to a term is clearly set forth in the specification.** See MPEP § 2111.01.< Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought.

Relevant portions of MPEP 2111.01 (IV) states:

> An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so "with reasonable clarity, deliberateness, and precision" and, if done, must "**'set out his uncommon definition in some manner within the patent disclosure' so as to give one of ordinary skill in the art notice of the change" in meaning)** (quoting *Intellicall, Inc. v. Phonometrics, Inc.*, 952 F.2d 1384, 1387-88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)). **Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim.** *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings"). Any special meaning assigned to a term **"must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention."** *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999) and MPEP § 2173.05(a). The specification should also be relied on for more than just explicit lexicography or clear disavowal of claim scope to determine the meaning of a claim term when applicant acts as his or her own lexicographer; the meaning of a particular claim term may be defined by implication, that is, according to the usage of the term in >the< context in the specification. See *Phillips v. AWH Corp.*, *>415 F.3d 1303<, 75 USPQ2d 1321 (Fed. Cir. 2005) (*en banc*); and *Vitronics Corp. v. Conceptronic Inc.*, 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996). Compare *Merck & Co., Inc., v. Teva Pharms. USA, Inc.*, 395 F.3d 1364, 1370, 73 USPQ2d 1641, 1646 (Fed. Cir. 2005), where the court held that patentee failed to redefine the ordinary meaning of "about" to mean "exactly" in clear enough terms to justify the counterintuitive definition of "about." **("When a patentee acts as his own lexicographer in redefining the meaning of particular claim terms away from their ordinary meaning, he must clearly express that intent in the written description.")**.

Petitioner is entitled to be his own lexicographer when redefining claim terms. However, according to MPEP 2173.01 and 2111.01(IV), redefining the ordinary meaning of a particular term requires applicant to clearly and specifically set forth in the specification the special meaning assigned to the term. Furthermore, where an explicit definition is provided by the

applicant for a term, that definition will control interpretation of the term as it is used in the claim.

A review of the record in this application shows that petitioner has not provided an explicit definition for the term "radial groove" in the specification. The only place that the term "radial groove" can be found in the specification is in the abstract. In reading the specification, applicant actually refers to the grooves labeled (405,505,605,805) as "wedge groove" (see page 5, line 14, page 6, line 1 and 14, and page 7, line 16). There is an inconsistency in what petitioner considers to be the grooves labeled (405,505,605,805) because applicant considers the grooves both a wedge groove and a radial groove. A review of petitioner's drawings reveals that numeral (405) points to a circumferential groove that is open toward the radially outward direction. Applicant's characterization of groove (405) as a radial groove is not correct and is misleading. Using petitioner's logic to characterize groove (405) as a radial groove, it is unclear why applicant's groove (403) is not also a radial groove since it opens in the radially outward direction as well. However, petitioner has characterized groove (403) as an axial groove. Thus, it is clear that applicant's own system of characterizing the grooves (403) and (405) fails to be consistent. There is no dispute between the examiner and the petitioner that the ordinary meaning of a groove that extends circumferentially around a shaft is a "circumferential groove". The petitioner states on page 2, lines 21-22 that "Applicant agrees with the Examiner that the phrase "radial groove" is implicitly defined to mean a groove extending circumferentially around the shaft.". Applicant essentially states that there is an implicit definition for the term "radial groove". However, nowhere in the specification is there given an explicit definition of the term "radial groove". Petitioner's argument in the petition that the definition for "radial groove" implied in the application, and admitted in the prosecution history, must control examination of those claims that recite this phrase is not convincing because MPEP 2173.01 and 2111.01(V) requires applicant to provide either an explicit definition of the term or provide a clear indication in the specification that a special definition is being given to the term. Petitioner has not provided a clear special definition for the term "radial groove" in the specification or an explicit definition of the term. Therefore, the examiner's objection to the term "radial groove" in the claims and the specification is correct in accordance with MPEP 2173.01 and 2111.01(IV).

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. Specifically, the examiner's objection to the claims and the specification in the final Office action dated June 27, 2006 is proper.

The application is being forwarded to the Board of Patent Appeals and Interferences for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37

CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Frederick R. Schmidt, Director
Technology Center 3700

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AUG 17 2007
OFFICE OF PETITIONS

In re Application of	:	
Olson et al.	:	
Application No. 10/901,338	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. 200312992-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Anderson	:	
Application No. 10/901,386	:	ON PETITION
Filed: July 27, 2004	:	
Attorney Docket No. 14676.1US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

This application became abandoned for failure to respond to the Notice of Allowability mailed December 9, 2004. A Notice of Abandonment was mailed on October 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form one (1) sheet of replacement drawings containing Figures 4-5; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG - 1 2005

Patent Administrator
KATTEN MUCHIN ZAVIS ROSENMAN
Suite 1600
525 West Monroe Street
Chicago, IL 60661

In re application of Steven Zoric Application No. 10/901,390 Filed: July 28, 2004 For: INVESTMENT STRUCTURE FOR TAX-EXEMPT AND TAX DEFERRED INVESTORS	:	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 30, 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 June 30, 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.

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

SNM/dew: 07/28/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of
Toepfer et al.
Application No. 10/901,408
Filed: July 27, 2004
Attorney Docket No. 28681/97170

Decision on Petition

This is a decision on the petition filed December 1, 2004, to accord the above-identified application a filing date of July 27, 2004.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." A fee is not necessary for the request for reconsideration.

On July 27, 2004, the application was deposited.

On October 1, 2004, the Office of Initial Patent Examination mailed a Notice stating that the specification was missing and that a filing date had not been accorded.

In response, the present petition does not allege the missing portion of the application was submitted on July 27, 2004. Instead, petitioner notes the transmittal sheet incorporated by reference the prior application.

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

Unfortunately, the petition does not clearly state the papers being submitted are an exact copy of the prior application. The Office would appreciate petitioner supplying such a statement. If the papers are not an exact copy of the prior application, then an exact copy should be filed.

A fee of $130 for the petition was charged to petitioner's deposit account on December 6, 2004. The fee for a petition under 37 CFR 1.53 was increased to $400 effective November 1, 2004.[1] Therefore, an additional $270 has been charged to petitioner's deposit account.

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

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

---

[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).

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 (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

PAGE 4/5 * RCVD AT 5/25/2005 3:40:20 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:3127595646 * DURATION (mm-ss):01-30

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CHICAGO, IL 60690-2786

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MAR 2 5 2005
OFFICE OF PETITIONS

In re Application of
Toepfer et al.
Application No. 10/901,408
Filed: July 27, 2004
Attorney Docket No. 28681/97170

Decision on Petition

This is a decision on the petition filed December 1, 2004, to accord the above-identified application a filing date of July 27, 2004.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." A fee is not necessary for the request for reconsideration.

On July 27, 2004, the application was deposited.

On October 1, 2004, the Office of Initial Patent Examination mailed a Notice stating that the specification was missing and that a filing date had not been accorded.

In response, the present petition does not allege the missing portion of the application was submitted on July 27, 2004. Instead, petitioner notes the transmittal sheet incorporated by reference the prior application.

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

Unfortunately, the petition does not clearly state the papers being submitted are an exact copy of the prior application. The Office would appreciate petitioner supplying such a statement. If the papers are not an exact copy of the prior application, then an exact copy should be filed.

A fee of $130 for the petition was charged to petitioner's deposit account on December 6, 2004. The fee for a petition under 37 CFR 1.53 was increased to $400 effective November 1, 2004.[1] Therefore, an additional $270 has been charged to petitioner's deposit account.

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

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

DOCKETED
FOR
BY
DATE 3/28/05

[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).

MAY. 25. 2005 2:39PM BARNES & THORNBURG NO. 122 P. 4/5

PAGE 5/5 * RCVD AT 5/25/2005 3:40:20 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:3127595646 * DURATION (mm-ss):01-30

By facsimile: (703) 872-9306 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 (703) 306-5683.

3/28/05 Not in service

571-272-3203

5/25/05 Call Ex. re: fax

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

MAY. 25. 2005 2:40PM BARNES & THORNBURG NO. 122 P. 5/5

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Toepfer et al.
Application No. 10/901,408
Filed: July 27, 2004
Attorney Docket No. 28681/97170

Decision on Petition

This is a decision on the renewed petition filed May 25, 2005, requesting the application be accorded a filing date of July 27, 2004.

The petition is **granted**.

The application was filed July 27, 2004.

On October 1, 2004, the Office of Initial Patent Examination mailed a Notice stating that the specification was missing and that a filing date had not been accorded.

In response, the present petition does not allege the missing portion of the application was submitted on July 27, 2004. Instead, petitioner notes the transmittal sheet incorporated by reference the prior application.

The first sentence of the specification, as amended by the preliminary amendment, incorporates by reference the contents of application no. 09/710,463.

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

Petitioner has filed copies of the specification, claims, and drawings from application no. 09/710,463.

Based on the incorporation by reference, it appears that the specification, claims, and drawings were present in the Office on July 27, 2004, albeit in the file of another application. Therefore, on petition, the application will be accorded the requested filing date of July 27, 2004.

The copy of the specification submitted December 1, 2004, will be used for examination purposes.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 27, 2004, using the application papers filed on July 27, 2004, and the copy of specification, claims, and drawings filed on December 1, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JUL 20 2006

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

In re Application of	:	
Lary G. Banning	:	
Serial No.: 10/901,409	:	DECISION ON PETITION
Filed: July 27, 2004	:	
For: Minimally Invasive Vascular Surgery	:	

This is in response to applicants' petition filed September 24, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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

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OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of
Martin Kissner, et al.
Application No. 10/901,431
Filed: July 29, 2004
Attorney Docket No. 449122075300

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Forester, LLP has been revoked by the assignee of the patent application on August 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Martin Kissner et al.	:	
Application No. 10/901,433	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. 449122075200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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DEC 26 2007
OFFICE OF PETITIONS

In re Application of	:
Didier Lapeyre	:
Application No. 10/901,443	: DECISION GRANTING PETITION
Filed: July 29, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 0579-1083-5	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 a substitute specification; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of June 14, 2007, is accepted as having been unintentionally delayed.

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

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

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

In re Application of :
Toru Takehara et al. :
Application No. 10/901,457 :
Filed: July 27, 2004 :
Attorney Docket No. 294-002C :

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ON PETITION
APR 29 2008
OFFICE OF PETITIONS

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 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 February 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2007. A Notice of Abandonment was mailed on September 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on October 9, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3651 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.

Andrea Smith
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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GORE ENTERPRISE HOLDINGS, INC.
551 PAPER MILL ROAD
P.O. BOX 9206
NEWARK, DE 19714-9206

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Gregory D. Culler, et. al. :
Application No. 10/901,473 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. FA/270 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Carol A. Lewis appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The application became abandoned for failure to file a proper reply to the non-final Office action mailed October 20, 2008.

As authorized, the petition fee of $1,620 has been charged to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,110 for a three months extension of time filed on May 1, 2009. 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 $1,110 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being referred to Technology Center Art Unit 3765 for appropriate action by the Examiner in the normal course of business on the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

Applicant	: Petros Gebreselassie	: DECISION ON REQUEST FOR
Patent Number	: 7641892	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/901,511	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **47** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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T. Chyau Liang, Ph.D.
OSHA - LIANG LLP
Suite 2800
1221 McKinney Street
Houston TX 77010

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Chakka et al.	:	DECISION ON APPLICATION
Application No. 10/901,563	:	FOR
Filed: July 29, 2004	:	PATENT TERM ADJUSTMENT
Attorney Dkt No.17243/005001	:	

This is a decision on the "Request for Reinstatement of Patent Term Adjustment Under 37 CFR §1.705(d)," filed October 16, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred fifty-four (254) days to two hundred sixty-two (268) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is two hundred eighty-one **(281)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 20, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 254 days. On October 16, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants' basis for the application for patent term adjustment is the improper Notice of Non-Compliant Amendment dated November 20, 2006. Applicants maintain the

[1] PALM records indicate that the Issue Payment was filed on December 17, 2007.

Notice was mailed due to examiners error. Petitioner maintains the reply to the restriction requirement submitted on October 23, 2006 was compliant. As applicant's response was filed on October 23, 2006, applicants assert that the period of applicant delay should be zero (0) days, not 38 days[2].

The record supports petitioner's contention. By response dated November 30, 2006, applicant advised the Office of the error in the Notice of Non-compliant Amendment and submitted no further response. The December 19, 2006 Office Action acknowledged the election was submitted on October 23, 2006 and requested no further correction of the response. As such, the record supports a conclusion that there was no applicant delay within the meaning of §1.704(c)(7). The period of reduction of 38 days is not warranted and is being removed.

As applicant's response to the restriction requirement was received within the three month time period set forth in 37 CFR 1.704(b), there was no applicant delay within the meaning of §1.704(b).

However, further review of the record shows that the submission of the IDS filed November 3, 2006 is deemed a supplemental reply within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction began October 24, 2006, the day after the date the reply to the restriction requirement was filed, and ended November 3, 2006, the date that the supplemental reply (IDS) was filed.

Applicants are further advised that a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than **thirty days** prior to the filing of the information disclosure statement. This thirty-day period is not extendable. *See*, 37 CFR 1.704(d).

---

[2] Applicants do not dispute the period of adjustment of 334 days for Office delay.

The IDS submitted November 3, 2006 does not comply with the requirements of 37 CFR 1.704(d).

Accordingly, a reduction of 11 days for applicants' failure to engage in reasonable efforts to conclude prosecution will be calculated.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 281 days (334 days - (11 + 23 + 19).

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Thursday

PALM INTRANET

Date: 1/3/2008
Time: 14:43:28

PTA Calculations for Application: 10/901563			
Application Filing Date:	07/29/2004	PTO Delay (PTO):	334
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	80
Post-Issue Petitions:	0	Total PTA (days):	281
PTO Delay Adjustment:	27		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	01/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
71	01/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	38		
60	09/20/2007	MAIL NOTICE OF ALLOWANCE			
59	09/20/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
58	09/06/2007	ISSUE REVISION COMPLETED			
57	09/06/2007	DOCUMENT VERIFICATION			
56	08/29/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	09/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	09/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
53	09/04/2007	NOTICE OF ALLOWABILITY			
52	08/24/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
51	08/29/2007	DATE FORWARDED TO EXAMINER			
50	08/29/2007	SUPPLEMENTAL RESPONSE		19	47
49	08/10/2007	TERMINAL DISCLAIMER FEE PAID			
48	08/17/2007	DATE FORWARDED TO EXAMINER			
47	08/10/2007	RESPONSE AFTER NON-FINAL ACTION			
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45	05/08/2007	NON-FINAL REJECTION			
44	04/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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42	05/02/2007	DATE FORWARDED TO EXAMINER			
41	04/11/2007	RESPONSE AFTER NON-FINAL ACTION		23	39
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39	12/19/2006	MAIL NON-FINAL REJECTION			
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37	11/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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35	02/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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25	03/24/2006	CORRESPONDENCE ADDRESS CHANGE			
24	03/24/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	10/27/2005	REFERENCE CAPTURE ON IDS			
22.7	10/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	10/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	02/28/2005	REFERENCE CAPTURE ON IDS			
19.7	02/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

19	02/28/2005	FILED			
18	01/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	12/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	12/13/2004	APPLICATION RETURN FROM OIPE			
15	12/13/2004	APPLICATION RETURN TO OIPE			
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13	12/13/2004	APPLICATION IS NOW COMPLETE			
12	12/13/2004	APPLICATION RETURN TO OIPE			
11	12/13/2004	APPLICATION DISPATCHED FROM OIPE			
10	12/13/2004	APPLICATION IS NOW COMPLETE			
9	12/01/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	12/01/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/06/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/20/2004	CLEARED BY L&R (LARS)			
4	09/14/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/14/2004	CASE CLASSIFIED BY OIPE			
2	08/23/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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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
10/901,573	07/29/2004	2838	770	DEE-PT188	9	15	3

CONFIRMATION NO. 1301

CORRECTED FILING RECEIPT

OC000000014798987

3624
VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 12/20/2004

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

Applicant(s)

Jianping Ying, Taoyuan Shien, TAIWAN;
Hua Lin, Taoyuan Shien, TAIWAN;
Qiuhua Zhu, Taoyuan Shien, TAIWAN;
Wen-Yin Tsai, Taoyuan Shien, TAIWAN;

Assignment For Published Patent Application

Delta Electronics Inc., Taoyuan Hsien, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number **3624**.

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 92120923 07/30/2003

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 US10/901,573

Projected Publication Date: 02/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Primary side ZVS push-pull converter having relatively less losses

Preliminary Class

363

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

GRANTED

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

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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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CHARLES E. BAXLEY, ESQ.
HART BAXLEY DANIELS & HOLTON
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
LEE	:	DECISION
Application No. 10/901,598	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. 14757 B	:	

This is a decision on the petition filed June 27, 2005, which is being treated as a request under 37 CFR 1.181(no fee), for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The application purportedly became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application allegedly became abandoned on March 2, 2005. A Notice of Abandonment was mailed to Applicant on June 16, 2005.

In support of the petition, petitioner includes a copy of the reply with an executed certificate of mailing bearing the date of January 28, 2005, along with an itemized postcard receipt showing a USPTO date stamp of January 31, 2005. The postcard itemization includes an "AMENDMENT w/MAILING CERTIFICATE."

According to MPEP 503, an itemized postcard receipt will be accepted as *prima facie* evidence of receipt in the USPTO of allegedly missing correspondence. Accordingly, the evidence submitted with the petition is convincing that the correspondence was timely entrusted to the USPS, and subsequently misplaced after receipt at the USPTO. The holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

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

The application matter is being forwarded to Technology Center Art Unit 3723 for further processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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In re Patent No. SIMEONE ET AL.	:	
Issue Date: September 20, 2005	:	**DECISION GRANTING**
Appl No.: 10/901,605	:	**PETITION**
Filed: July 29, 2004	:	*37 CFR 1.324*
Attorney Docket Number 210_986	:	
	:	
	:	
	:	

This is a decision on the petition filed July 13, 2006 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.

Cheryl J. Tyler
Supervisory Patent Examiner
Art Unit 3744
Technology Center 3700

CARRIER CORPORATION
ONE CARRIER PLACE
INTELLECTUAL PROPERTY DEPARTMENT
FARMINGTON, CT 06034

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DATE: August 6, 2008
TO: Certificates of Correction Branch
FROM: Cheryl J. Tyler
SPE, Art Unit 3744
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,945,071 as specified on the attached Certificate.

Cheryl J. Tyler, SPE
Art Unit 3744

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6/945,071
Patented: September 20, 2005

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:

Simeone, Robert	Bridgeport, New York
Yu, Yiming	Jamesville, New York
Perkovich, Mark	Fayetteville, New York
Stauter, Richie	Fayetteville, New York

Cheryl J. Tyler
Supervisory Patent Examiner
Art Unit 3744

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/05/08

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/901605** Patent No.: **6945071**

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: Petition granted

SPE

3744
Art Unit

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Scott D. Sanders, et al.	:	
Application No. 10/901,625	:	DECISION GRANTING PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MSI-2077US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Ootuka : DECISION ON PETITION
Application No. 10/901,626 :
Filed: July 29, 2004 :
Atty. Dkt. No.: P/29-1652 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 17, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b) filed March 11, 2008.

The petition is **DISMISSED**.

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

This application became abandoned June 22, 2007 for failure to timely reply to the final Office action mailed March 21, 2007. The final Office action set a three (3) month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed October 5, 2007.

DECISION UNDER 37 CFR 1.137(a)

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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition fails to satisfy requirements (1) and (3).

As to item (1), the petition submitted January 17, 2008 was not accompanied by a reply to the outstanding Office action.

As to item (2), the required petition fee has been charged to Deposit Account No. 15-0700, as authorized in the instant petition.

The present petition lacks requirement (3) above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the failure to timely reply to non-receipt of the final Office action.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from petitioner stating that the Office communication was not received by petitioner 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 petitioner'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.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The arguments submitted by petitioner have been carefully considered, but are not found convincing. Petitioner has included a copy of practitioner's docket report for the instant application. As acknowledged by petitioner, the docket report does not reflect the receipt of the non-final Office action mailed October 6, 2006. The docket report also does not reflect the submission of applicant's response to the non-final Office action received December 22, 2006. Petitioner attributes the failure to docket both the non-final Office action and the reply to the non-final Office action to docketing error. Petitioner has provided no evidence to support a conclusion that a docketing error occurred, such as, for example, information regarding the employee(s) whose action or inaction is believed to have led to the alleged docketing error.

Petitioner argues that the docket report supports also a conclusion that the final Office action was not received. The docket report, which contains two omissions, does not appear to be sufficiently reliable. The docket report does not reflect receipt of the non-final Office action. The docket report does not reflect applicant's submission of a reply to the non-final Office action. While petitioner attributes these omissions to a docket error, no evidence to this effect was submitted

Considering the unreliability of the docket report, it cannot be found that the report establishes that the final Office action was not received because it is just as probable that the final Office action was received, but not docketed, as was case with the receipt of the non-final Office action. Accordingly, the Office must conclude that the docket report is not sufficiently reliable to support a conclusion that the final Office action was not received.

In view thereof, the petition under 37 CFR 1.137(a) is hereby **DISMISSED**.

DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the reply in the form of a Request for Continued Examination, including required fee and submission; the required petition fee; and a proper statement of unintentional delay.

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

In view thereof, the petition under 37 CFR 1.137(b) is hereby **GRANTED**.

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

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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mb

Mailed: 5-30-06

In re application of
Albert I. Everaerts
Serial No. 10/901,629
Filed: July 29, 2004
For: (METH)ACRYLATE BLOCK COPOLYMER PRESSURE SENSITIVE ADHESIVES

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed April 18, 2006.

On December 19, 2005, a non-final office action was mailed to applicant rejecting all of the claims under 35 USC 103. A reply to the office action was filed by applicants on January 31, 2006. In the reply, applicants made amendments to the claims. A final office action was mailed by the office on April 18, 2006 containing new grounds of rejection. On May 23, 2006, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the April 18, 2006 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In the non-final rejection of December 19, 2005, Claims 1-15 and 21-22 were rejected over Tosaki in view of Paul. In the amendment filed by applicants, claims 1 and 12 were amended to include "consisting essentially of" language. The examiner withdrew the previous art rejection and established a new grounds of rejection of claims 1-15 and 21-22 over Tosaki in view of Dollase in the final office action of April 18, 2006. The petitioner argues that the amendment

did not warrant a new search, as such amendment does not alter the elements of the claims and the scope of the claims were not broadened by the amendment. The petitioner argues that the new rejection grounds could have been made in the previous office action. With respect to claims 1-15, the amendment to the claims does effect the scope of the claims and thus a new grounds of rejection may be appropriate. However, independent claim 21 was not amended in the applicant's response of January 31, 2006. Because the new grounds of rejection of Tosaki in view of Dollase was also applied to unamended claims 21-22, and the previous rejection of claims 21-22 over Tosaki in view of Paul was not maintained, it is deemed that the new ground of rejection in the final office action mailed April 18, 2006, over claims 21-22 was not necessitated by amendment. Therefore, petitioner's argument that the new grounds of rejection were not necessitated by Applicant's amendments are persuasive.

Because the rejection of claims 21-22, based on a new ground of rejection, was not necessitated by amendment, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from April 18, 2006. Extensions of time may be obtained to file any amendments.

JMStone

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

JEAN A. LOWN
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 4, 2009

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/901639 /7073374

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

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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.

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South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

SPE

2855
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 4, 2009

TO SPE OF : ART UNIT 2855
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/901639 /7073374

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

FOR IFW FILES:

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

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 2855 Art Unit

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OFFICE OF PETITIONS

Trask Britt
P.O. Box 2550
Salt Lake City, UT 84110

In re Application of	:	
Tamara Maes et al.	:	
Application No. 10/901,645	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 2676.02-4409.1US	:	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 2,2006.

The request is **APPROVED**.

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

The request was signed by Allen C. Turner on behalf of all attorneys of record who are associated with Customer No. 24247.

All attorneys/agents associated with the Customer No. 24247 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 Tamara Maes at the address indicated below.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Tamara Maes**
Avenida Traveserra de les Corts
171-7-2, E-08028
Barcelona, Spain

cc: **Tamara Maes**
Oryzon Genomics
Parc Cientific de Barcelona
C/Josep Samitier 1-5
Spain 08028

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/901,645	07/28/2004	Tamara Maes	2676.02-4409.1US

CONFIRMATION NO. 1776

OC000000020729675

OC000000020729675

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 10/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/02/2006.

- 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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PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven F. Clark et al	:	
Application No. 10/901,649	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. Clarksp107	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 7, 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 8, 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 3749 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA NY 14059

In re Application of: Clark, Steven F. et al
Serial No.: 10/901,649
Filed: Jul. 28, 2004
Docket: Clarksp107
Title: BED FRAME WITH INTEGRAL AIR PURIFYING DEVICE

DECISION ON PETITION

This is a decision on the petition filed on Dec. 24, 2007 seeking review of the Office action of Oct. 3, 2007 and the Advisory Action of Dec. 18, 2007. This petition is being considered pursuant to 37 CFR §1.181. No fee is required for this petition.

The petition is dismissed.

In the petition, petitioner indicates that the examiner used invalid references and provided a rejection without showing the required teaching of applicant's claimed limitations. In particular, petitioner states that the examiner used the Brauss et al (Brauss) patent to reject the claims. The examiner characterized the lengthwise structural members and cross member in Figs 1 and 2 of Brauss as a bed frame. Petitioner also points out that the claimed air purifier comprises a housing of a base plate, a top cover plate, and four sides. All air purifiers are so constructed. A complete housing is required not only to keep the inner working parts of the purifier clean and free from dust, but to securely enclose parts that could present a hazard if not enclosed, such as moving fans, hot lights, UV or IR radiation. Therefore, the housing of Brauss cannot be considered to be analogous to the bed frame taught by Applicant without taking away that which supports the working parts of the air purifier, which do not and cannot "float" in an air space under a bed or anywhere else. Petitioner further opines that the idea of an air purifier without a housing frame is not realistic. Air purifiers cannot work without a housing frame. The air purifier as taught by the applicant requires the housing not only to house the working parts of the air purifier but also as an attachment means to attach the air purifier to a bed frame. Essentially, the petitioner is arguing that Brauss cannot be a credible reference. Petitioner also argues that Figs. 1 and 2 of the Wiser, III et al (Wiser) patent does not teach the claimed air purifier because it cannot process air from one side of the purifier to the other. The air of the applicant's invention enters the air purifier from one side of bed, is treated with the air purifier, and is expelled on another side of the air purifier. The air of the applicant's invention could not be expelled upward because of the presence of the mattress. Neither of these applied references, alone or in combination, teaches the limitations of Applicant's claim. Petitioner asserts the examiner has constructed a meaningless rejection.

A review of the latest final Office action shows all claims 1, 3-16 have been rejected under 35 USC § 102 as anticipated by Brauss, U.S. Pat. 3750370 and claims 1, 3-5 under 35 USC § 102 as anticipated by Wiser, U.S. Pat. Publication 2004/0144254. The contents of the rejection appear to cover and address all claims under rejection. In the Advisory Action of Dec. 18, 2007, the examiner answered the applicant's argument regarding the failure of the references to teach a bed frame with all its recited structure and an air purifying unit attached to the structure. The examiner also stated that claims in a pending application should be given their broadest reasonable interpretation. The examiner does not believe that it is unreasonable for the references to read on the exceptionally broad claim language of the applicant. A bed frame with its lengthwise structural members and cross member has been identified in figures 1 and 2 of Brauss. Also an air purifier as claimed has been identified in Brauss. The examiner asserts Applicant's comments regarding the air purifier and a public space do not appear to be relevant. Regarding the Wiser patent, the examiner does not believe the applicant's comments appear to be relevant as figure 5 was not used to teach the limitations but figures 1 and 2 of Wiser. The examiner goes on to argue that the air flow in figure 2 is clearly from the side filters and up. The unit is forced air so a fan is involved in the operation of Wiser. The exhibit of the applicant has been reviewed, but does not appear to add any new arguments to the applicant's arguments.

In view of the totality of the records, the examiner's Office actions are not seen as arbitrary and capricious. The Office actions are in compliance with the USPTO regulations and policy. The issues presented by petitioner are clearly directed to the propriety of the examiner's rejection of claims 1, 3-16 under 35 USC § 102. The questions of whether the claims should be rejected under 35 USC § 102 or not is clearly an appealable issue under 37 CFR § 41.31(a)(1). According to 37 CFR § 1.181(a)(1)[1], it is clear that petitioner's arguments will not support the requested relief, because the relief requested is simply not the type of relief that can be obtained by petition. The propriety of a rejection of a claim, ultimately, is to be determined by the Board of Patent Appeals and Interferences in accordance with 37 CFR § 1.181(a) (1).

For the foregoing reasons, the review requested by the petitioner has been made. Issues regarding the rejection of claims are appealable and will not be decided by petition. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4586.

PETITION DISMISSED.

Karen M. Young

for Karen M. Young, Director
Technology Center 3700

[1] 37 CFR § 1.181(a) (1) states: Petition may be taken to the Director: (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court.

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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Jin Tian et al	:	
Application No. 10/901,660	:	DECISION ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. 7104.US.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of March 27, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1616 for appropriate action in the normal course of business on the reply received September 28, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Paul D. Yasger
Abbott Laboratories
100 Abbott Park Road
Dept. 377/AP6A
Abbott Park, IL 60064-6008

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AUG 05 2008

In re Application of	:	
Jin Tian et al.	:	
Application No. 10/901,660	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. 7104US01	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, October 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $810 (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal has been accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1612 for processing of the Notice of Appeal and for the RCE filed on June 23, 2008 by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET,
SUITE 4000
CHARLOTTE NC 28280-4000

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Rajesh Talwar et al	:	
Application No. 10/901,687	:	DECISION GRANTING PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038190/278309	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 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 1793 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.*

Fee Processing

(For Petitions Use Only)

App. No./Pat No.
10/901687
Atty Docket No./Cust. No.
738904/2006002 7630
Paper Rec'd Date
Form Completed
6-19-08

Check Amt. #1

Check Amt. #2

Deposit Acct.
16-0605

Fee Code	Fee Amt.	Paper #
1464	130	

Credit Card ☐ (See attached)

Refund ☐ (See attached)

(PTO Employee - please circle the code(s) and amount(s) to be refunded/credited)

Change App No./Pat. No. ☐

From

To

Change Fee Code ☐

From Code	Amount

To Code	Amount	Paper #

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Attorney Docket No. 038190/278309

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Talwar, et al.	Group Art Unit:	1793
Appl. No.:	10/901,687	Examiner:	Stoner, Kiley Shawn
Filed:	July 29, 2004	Confirmation No:	1506
For:	FRICTION STIR WELDING OF JOINTS WITH SHIMS		

Filed Via USPTO E-Filing
ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R § 1.313(c)(2)
TO WITHDRAW APPLICATION FROM ISSUE

Sir:

Pursuant to 37 C.F.R § 1.313(c)(2), Applicants hereby petition that this application be withdrawn from issue. Submitted concurrently herewith is a Request for Continued Examination (RCE) pursuant to 37 C.F.R § 1.114, corresponding fees, and a copy of a Supplemental Information Disclosure Statement, pursuant to 37 C.F.R § 1.97. The Commissioner is hereby authorized to charge any fee insufficiency to Deposit Account 16-0605.

As stated in 37 C.F.R § 1.313(c)(2), once the issue fee has been paid, an application can be withdrawn from issue upon petition by the applicant for consideration of an RCE in compliance with 37 C.F.R § 1.114. Applicants respectfully submit that the present filing meets the requirements of 37 C.F.R § 1.313(c)(2). Accordingly, Applicants petition to withdraw the present application from issue and, in the event that Applicants' petition is granted, to allow filing of the accompanying RCE. As the application is otherwise set to issue on Tuesday, June 24, 2008, Applicants request that this Petition be immediately reviewed and appreciate the Office's prompt consideration.

Applicants request that the references set forth in the Supplemental Information Disclosure Statement be considered in the RCE.

Applicants further request return of the issue fee submitted May 21, 2008, by crediting our Deposit Account 16-0605. The Commissioner is authorized to charge any fee relative to this submittal to our Deposit Account No. 16-0605.

Respectfully submitted,

Guy R. Gosnell
Registration No. 34,610

Customer No. 000067141

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JUNE 19, 2008 BY SHEILA ROGERS.

Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No. 10901687

10901687

For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official: CREASY, KAREN

Count (1) - Palm Credit 10/901,687

Decision Type: 555 - 37 CFR 1.313(c)(1) and (c)(2) - W/D FROM ISSUE, PATENT NUMBER ASSIGN

Decision: GRANT

Time Period for Reply: n/a

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JUN 19 2008

OFFICE OF PETITIONS

Notes:

Count (2)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

Count (3)

Decision Type: NONE

Decision: n/a

Time Period for Reply: n/a

Notes:

_____ Initials of Approving Official (if required)

if more than 3 decisions, attach 2nd count sheet & mark this box ☐

Printed on: *6/19/08*

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801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of
Allen R. Samuels, et al.
Application No. 10/901,691
Filed: July 28, 2004
Attorney Docket No. 23447-09312

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 18, 2006.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with customer No. 00758.

All attorneys/agents associated with the Customer Number 00758 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ALLEN R. SAMUELS
5971 FOLLGNO WAY
SAN JOSE, CA 95138

cc: CHOATE, HALL & STEWART
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/901,691	07/28/2004	Allen R. Samuels	23447-09312

CONFIRMATION NO. 1510

OC000000021940874

OC000000021940874

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 01/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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IRVING TSAI
435 EAST 70 STREET, #16-K
NEW YORK CITY, NY 10021

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of Tsai, Irving Application No. 10/901,732 Filed: July 29, 2004 Attorney Docket No. IRT021988-02	: : : : :	ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 15, 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 29, 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 30, 2004. A Notice of Abandonment was mailed on June 10, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 15 2007

AMGEN INC.
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

In re Application of	:
Timothy D. Osslund et al	:
Serial No.: 10/901,735	: PETITION DECISION
Filed: July 29, 2004	:
Attorney Docket No.: A-859-US-NP	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed July 25, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Nysen	:	
Application No. 10/901,743	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 035826-000031	:	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 10, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Thelen Reid & Priest LLP has been revoked by the assignee of the patent application on November 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Patent Law Professionals**
P.O. Box 612407
San Jose, CA 95161

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HAMRE, SCHUMANN, MUELLER & LARSON,P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

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AUG 1 8 2008

In re Application of	:	
Jayant Deshpande	:	
Application No. 10/901,748	:	DECISION ON PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 14100.0003US01	:	

This is a decision on the petition under 37 CFR 1.55(c), filed May 13, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign India Application No.28/CHE/04.

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 (5) above. In this regard, the Application Data Sheet (ADS) reference the foreign application as being filed on **January 14, 2003**. Clarification is required.

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 matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 03 2008

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

In re Application of	:	
Jayant Deshpande	:	
Application No. 10/901,748	:	DECISION ON PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 14100.0003US01	:	

This is a decision on the reply filed August 29, 2008, which is also being treated as a renewed petition under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign India Application No.28/CHE/04, filed January 14, 2004.

The petition is **GRANTED**.

This pending nonprovisional 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.

This application was filed on July 29, 2004, which is after November 29, 2000 and within 12 months of January 14, 2004 (the filing date of the foreign application to which benefit is now being claimed). On August 29, 2008, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 was received on May 13, 2008. 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.

Petitioner was informed that the ADS submitted on May 13, 2008 was not signed.

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 1616 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/901,748	07/29/2004	1616	1436	14100.0003US01	47	2

CONFIRMATION NO. 2897

CORRECTED FILING RECEIPT

Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902

OC000000031748970

Date Mailed: 08/26/2008

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)

Jayant Deshpande, Nerul, INDIA;

Assignment For Published Patent Application

Kancor Flavours and Extracts Ltd., Angamally South, INDIA

Power of Attorney: The patent practitioners associated with Customer Number 23552

Domestic Priority data as claimed by applicant

Foreign Applications

INDIA 28/CHE/04 01/14/2004

If Required, Foreign Filing License Granted: 11/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/901,748**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel stable beadlets of lipophilic nutrients

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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.

SPE: A. Knight

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/16/07

TO SPE OF : ART UNIT 2121

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/901,764 Patent No.: 7010362

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2121
Art Unit

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

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

Mail Date: 04/21/2010

Applicant	: Chang-Soo Koo	: DECISION ON REQUEST FOR
Patent Number	: 7616677	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/901,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **701** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 05/18/2010

Applicant : Chang-Soo Koo
Patent Number : 7616677
Issue Date : 11/10/2009
Application No : 10/901,795
Filed : 07/29/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Gergely T. Zimanyi
SIDLEY AUSTIN BROWN & WOOD LLP
Suite 5000
555 California Street
San Francisco, CA 94104-1715

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JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of
Choi et al.
Application No. 10/901,811
Filed: July 29, 2004
Attorney Docket No. 25503/81601
For: Phase Shift Full Bridge Converter

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 23, 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) above. Petitioner has failed to establish the inventor was able to sign the declaration but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention. The petition fails to establish the non-signing inventor was presented with a copy of the application papers. The petition refers to letters sent to the non-signing inventor but the office is unable to determine if copies of the application were attached to the letters.

Petitioner should send a copy of the application to the inventor along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

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.

Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 was increased to $200.[1] Therefore, $200, rather than $130, has been charged to petitioner's deposit account for 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 facsimile: (703) 872-9306
Attn: Office of Petitions

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401 Dulany Street
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If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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Gergely T. Zimanyi
SIDLEY AUSTIN BROWN & WOOD LLP
Suite 5000
555 California Street
San Francisco, CA 94104-1715

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of Choi et al. Application No. 10/901,811 Filed: July 29, 2004 Attorney Docket No. 25503/81601 For: Phase Shift Full Bridge Converter	: : : : : :	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 11, 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 petition fee of $200 was charged to petitioner's deposit account after the first petition was filed and after the instant renewed petition was filed. Therefore, $200 will be credited back to petitioner's deposit account.

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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DAVIS WRIGHT TREMAINE LLP – SANDISK CORPORATION
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Reuven Elhamias et al	:	
Application No. 10/901,849	:	ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. SNDK.286US0	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 10, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 11, 2007.

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

This matter is being referred to Technology Center AU 2887 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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August 14, 2007

Lawrence E. Ashery
RatnerPrestia
P. O. Box 980
Valley Forge, PA 19482

Patent No: 7206195 B2
Application No: 10/901854
Applicant: Masahiro Takahashi, et al.
Issued: April 17, 2007
Title: **DISPLAY AND REMOTE CONTROLLER INCLUDING DISPLAY**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Per the examiner "**As per issue notification dated 04/14/07, 243 days are correct: also PAIR shows loss of 100 days by applicant delay (APPL)**".

In view of the foregoing your request in this matter are hereby **denied**.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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CROCKETT & CROCKETT, P.C.
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AUG 01 2008

In re Patent No. 7,295,871	:	
Issue Date: November 13, 2007	:	
Application No. 10/901,862	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. 212/603	:	

This is a decision on the petition filed October 10, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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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Paul J. White
Senior Counsel
National Renewable Energy Laboratories
1617 Cole Boulevard
Golden, CO 80403-3393

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OFFICE OF PETITIONS

In re Application of	:	
Lee, et al.	:	
Application No.: 10/901,863	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. NREL-0021C	:	

This is in response to the petition under 37 CFR 1.137(b) filed January 31, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on September 24, 2004, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $65.00 surcharge for the late filing of the same. A complete response was not received within the allowable period, and the application became abandoned on November 25, 2004. A Notice of Abandonment was mailed on June 10, 2005.

This application is being 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

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BIOARRAY SOLUTIONS, LTD.
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Seul	:	
Application No. 10/901,864	:	DECISION DISMISSING PETITIONS
Filed: July 29, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. ECDC-USC1	:	

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) 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.

The petition does not comply with items (1) and (2).

As to 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 submitted with the petition reads:

> This application is a continuation of US Application Serial No. 09/448,420, filed 11/22/1999, which is a Section 371 of PCT International Application No. PCT/US98/10719, filed May 22, 1998, which claims priority of U.S. Provisional Application No. 60/047,474, filed May 23, 1997. Priority to all prior applications is hereby claimed.

Office records disclose that Application No. 09/448,420 was filed pursuant to the provisions of 35 U.S.C. § 111(a), rather than under the provisions of 35 U.S.C. § 371. The continuity data for Application No. 09/448,420 shows that application to be a "continuation of PCT/US98/10719" having a filing date of May 22, 1998, which claims priority to provisional Application No. 60/047,472, filed May 23, 1997. Therefore, the claim for benefit of priority is improper in that it fails to state the relationship (continuation) of Application No. 09/448,420 to Application No. PCT/US98/10719 and, thus, fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).

As to item (2), there were insufficient funds in petitioner's deposit account to charge the fee required by 37 CFR 1.17(t). Accordingly, a fee of $1,370 is due for the present petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and an amendment or an Application Data Sheet which corrects the above matters are required.

As authorized, the $1,370 petition surcharge fee will be charged to petitioner's deposit account.

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

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

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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WARREN, NJ 07059

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Seul	:	
Application No. 10/901,864	:	DECISION GRANTING PETITIONS
Filed: July 29, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. ECDC-USC1	:	

This is a decision on the renewed petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and 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)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(iii) 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.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1639 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/901,864	07/29/2004	1639	730	ECDC-USC1	13	1

CONFIRMATION NO. 2937

CORRECTED FILING RECEIPT

OC000000025891808

Bioarray Solutions, Ltd.
35 Technology Drive
Warren, NJ 07059

Date Mailed: 09/19/2007

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)

Michael Seul, Fanwood, NJ;

Power of Attorney:

Clifford Davidson--32728
Cary Kappel--36561
Julie Bowker--37870
William Gehris--38156
Leslye Davidson--38854
Robert Paradiso--41240
Scott Appelbaum--41587
David Knasiak--45991

Domestic Priority data as claimed by applicant

This application is a CON of 09/448,420 11/22/1999 PAT 7,083,914
which is a CON of PCT/US98/10719 05/22/1998
which claims benefit of 60/047,472 05/23/1997

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/901,864

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Color-encoding and in-situ interrogation of matrix-coupled chemical compounds

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of	:
Mark J. Redmond et al	:
Serial No.: 10/901,866	: SUSPENSION OF ACTION
Filed: July 29, 2004	:
Attorney Docket No.: 3968-121	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of four weeks, filed February 1, 2007.

A review of the file history shows that this is an examined application.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' petition states that applicants' representative is requesting a suspension of four weeks (i.e. – one month) in order to schedule an interview with the examiner which cannot be scheduled earlier due to applicants' representative's sitting for the Florida Bar Examination in early March. It is noted that the examiner mailed a non-Final Office action to applicants on July 7, 2006, to which a response was filed on December 18, 2006, more than five months later. More than six weeks thereafter applicants' representative first contacted the examiner regarding a "live" interview to better understand the concerns of the examiner.

The review of the above facts shows that applicants and/or their representative have had approximately seven months within which to arrange a "live" interview with the examiner and have delayed in doing so. Such is not considered to be a showing of good and sufficient cause for suspension of prosecution of an application.

In view of the above the petition is **DENIED**.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of
Mark J. Redmond et al
Application No. 10/901,866
Filed: July 29, 2004
Attorney Docket No. 3968-121

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed December 16, 2008.

The request is **DISMISSED**.

The refunds are governed by the three month requirement of § 1.28(a). The request for refund submitted on December 16, 2008 is more than three months from payment of the fees. Additionally, Section 1.28(c), which applicant cites to, does not provide for payment of refunds by the Office to applicant, but payment of fee deficiencies by applicant to the Office.

The application will, however, be accorded small entity status for future fee payments.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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DEC 0 3 2004

TECHNOLOGY CENTER 3600

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

In re application of
Robert T. Bigelow
Application No. 10/901,874
Filed: July 29, 2004
For: RADIATION SHIELD

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENT AND ENERGY)

This is a decision on the petition filed on July 29, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

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

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

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

The thrust of applicant's petition is that the radiation shield of applicant's invention is instrumental in the deployment of a Modular Habitat in space for research into technologies that would reduce reliance on basic life sustaining natural elements and materially contribute to the utilization and conservation of energy sources.

The arguments by applicant's attorney are insufficient to grant either a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section VI: Energy. In this regard, petitioner's reasoning for granting on either of the grounds in the petition is considered to be convoluted and tenuous, at best. Petitioner has failed to show a direct link between the radiation shield of the above-noted application and either a material enhancement in the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, or a material contribution to the utilization and conservation of energy sources.

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

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

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

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

snm/snm: 11/19/04

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

FRANKLIN E. GIBBS, ESQ.
BIGELOW AEROSPACE
1899 W. BROOKS AVE.
NORTH LAS VEGAS, NV 89032

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JUN 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert T. BIGELOW	:	
Application No. 10/901,874	:	DECISION ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. BA-U-RAD-00010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 13, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 14, 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) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received February 27, 2008.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 28 2009

OFFICE OF PETITIONS

ROBERT T. BIGELOW
4640 S. EASTERN AVE
LAS VEGAS, NV 89119

In re Application of	:	
Robert T. Bigelow	:	
Application No. 10/901,874	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. BA-U-RAD-00010	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 29, 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 March 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Yassin Aden Awad	: DECISION ON REQUEST FOR
Patent Number	: 7590181	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/901,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
RACIBORSKI et al.	:	DECISION ON APPLICATION
Application No. 10/901,907	:	FOR PATENT TERM ADJUSTMENT
Filed: July 28, 2004	:	
Docket No. 040152-000110US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed March 10, 2010. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 415 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **415 days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On December 29, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 408 days. Applicants timely filed the instant application for patent term adjustment[1].

Applicants assert that they should have been assessed a period of reduction of 30 days (not 37 days) for applicant delay in

[1] PALM Records indicate that the Issue Fee payment was received on March 11, 2010.

responding to the Notice to File Missing Parts of Nonprovisional Application mailed September 29, 2004. Specifically, applicants contend that they filed a complete and proper response to the Notice to File Missing Parts of Nonprovisional Application on January 28, 2005 (not February 4, 2005).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that the Office incorrectly entered the date of receipt of the reply to the Notice to File Missing Parts of Nonprovisional Application as February 4, 2005, instead of January 28, 2005.[2] Therefore, the date of receipt of the response on January 28, 2005, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b).

In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 30 days (not 37 days), the number of days in the period beginning on the day after the date that is three months after the date of mailing of Notice to File Missing Parts of Nonprovisional Application, December 30, 2004, and ending on the date the reply was filed, January 28, 2005. Accordingly, the period of reduction of 37 days is being removed and a period of reduction of 30 days is being entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 415 days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

---

[2] The response located in the Image File Wrapper for this application contains a USPTO date-stamp of January 28, 2005.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Tuesday
Date: 7/13/2010

PALM INTRANET

Time: 12:43:52

PTA Calculations for Application: 10/901907			
Application Filing Date:	07/28/2004	PTO Delay (PTO):	569
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	161
Post-Issue Petitions:	0	Total PTA (days):	415
PTO Delay Adjustment:	7		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	07/13/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
91	07/13/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	37		
79	12/29/2009	MAIL NOTICE OF ALLOWANCE			
78	12/28/2009	ISSUE REVISION COMPLETED			
77	12/28/2009	DOCUMENT VERIFICATION			
76	12/28/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	12/10/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
74	12/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	12/28/2009	NOTICE OF ALLOWABILITY			
72	11/03/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	11/28/2009	DATE FORWARDED TO EXAMINER			
68	11/24/2009	RESPONSE AFTER NON-FINAL ACTION		61	63
67	11/24/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
66	11/03/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/19/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
64	10/15/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	06/24/2009	MAIL NON-FINAL REJECTION	29		52
62	06/22/2009	NON-FINAL REJECTION			
61	04/15/2009	DATE FORWARDED TO EXAMINER			
60	04/16/2009	MAIL APPEALS CONF. REOPEN PROSEC.			
		PRE-APPEALS CONFERENCE DECISION -			

59	04/15/2009	REOPEN PROSECUTION			
58	03/25/2009	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
57	03/25/2009	NOTICE OF APPEAL FILED			
56	03/25/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	02/09/2009	MAIL ADVISORY ACTION (PTOL - 303)			
54	02/06/2009	ADVISORY ACTION (PTOL-303)			
53	01/30/2009	DATE FORWARDED TO EXAMINER			
52	01/26/2009	AMENDMENT AFTER FINAL REJECTION			
51	11/25/2008	MAIL FINAL REJECTION (PTOL - 326)			
50	11/24/2008	FINAL REJECTION			
48	09/21/2008	DATE FORWARDED TO EXAMINER			
47	09/02/2008	RESPONSE AFTER NON-FINAL ACTION		61	43
46	09/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	08/18/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	08/11/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	04/03/2008	MAIL NON-FINAL REJECTION	70		32
42	03/31/2008	NON-FINAL REJECTION			
41	01/04/2008	DATE FORWARDED TO EXAMINER			
40	01/04/2008	MAIL APPEALS CONF. REOPEN PROSEC.			
39	01/03/2008	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
38	11/21/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
37	11/21/2007	NOTICE OF APPEAL FILED			
36	11/21/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	10/02/2007	MAIL ADVISORY ACTION (PTOL - 303)			
34	10/01/2007	ADVISORY ACTION (PTOL-303)			
33	09/27/2007	DATE FORWARDED TO EXAMINER			
32	09/24/2007	AMENDMENT AFTER FINAL REJECTION		2	31
31	06/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	06/20/2007	FINAL REJECTION			
29	04/12/2007	DATE FORWARDED TO EXAMINER			
28	04/09/2007	RESPONSE AFTER NON-FINAL ACTION			

27	04/11/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
26	04/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	01/11/2007	MAIL NON-FINAL REJECTION	470		-1
24	01/07/2007	NON-FINAL REJECTION			
23	02/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	12/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	02/27/2006	REFERENCE CAPTURE ON IDS			
19.7	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	06/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/04/2005	REFERENCE CAPTURE ON IDS			
15.7	02/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	02/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/28/2005	PRELIMINARY AMENDMENT			
13	06/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	03/09/2005	APPLICATION RETURN FROM OIPE			
11	03/09/2005	APPLICATION RETURN TO OIPE			
10	03/08/2005	APPLICATION DISPATCHED FROM OIPE			
9	03/09/2005	APPLICATION IS NOW COMPLETE			
8	02/04/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		37	6
7	02/04/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	09/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/16/2004	CLEARED BY L&R (LARS)			
4	09/13/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/13/2004	CASE CLASSIFIED BY OIPE			
2	08/31/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	07/28/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-19-08

TO SPE OF : ART UNIT 2892

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/901920 Patent No.: 7344966

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

FOR IFW FILES: IFW

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Thao Le /TL/ — **SPE**

2892 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090208

DATE : February 09, 2008

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 7453150

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Allen R. Samuels, et al.	:	
Application No. 10/901,940	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 23447-09316	:	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 18, 2006.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with customer No. 00758.

All attorneys/agents associated with the Customer Number 00758 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ALLEN R. SAMUELS
5971 FOLLGNO WAY
SAN JOSE, CA 95138

cc: CHOATE, HALL & STEWART
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/901,940	07/28/2004	Allen R. Samuels	23447-09316

CONFIRMATION NO. 1455

OC000000021940347

OC000000021940347

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 01/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : October 24, 2006

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 7,083,442

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:

The corrections are editorial in nature, not affecting the scope of the claims.

SPE: _____ **Art Unit** 2833

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/06

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/901951** Patent No.: **7083442**

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

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

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

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: changes are editorial in nature not affecting scope of the claims' CR 11/6/06

T. Chatt 2833

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 17 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Allen R. Samuels et al.	:	
Application No. 10/901,952	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 23447-09311	:	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 18, 2006.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Allen R. Samuels**
5971 Foligno Way
San Jose, CA 95138

cc: **Choate, Hall & Stewart**
Two International Place
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/901,952	07/28/2004	Allen R. Samuels	23447-09311

CONFIRMATION NO. 1683

OC000000022015249

OC000000022015249

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 01/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

- 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

United States
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PETITION DECISION

09/29/04

Brett S. Sylvester
SUGHRUE MION PLLC
2100 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20037

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/901956 received on 09/10/04 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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Paper No.

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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APR 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	DECISION ON
Application No. 10/902,004	:	PETITION
Filed: July 30, 2004	:	
Atty Docket No. 054788/383511	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed February 10, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed July 31, 2009. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action, with extensions of time obtainable under 37 CFR 1.136(a). A reply was received on Monday, November 2, 2009. However, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed November 17, 2009). No proper reply having been received and no extension of time obtained, the application became abandoned effective November 1, 2009. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted the required reply in the form of a Request for Continued Examination (RCE and RCE Fee) and submission under §1.114 (in the form of an amendment); paid the

petition fee; and made the required statement of unintentional delay.

Technology Center AU 1795 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and submission) filed on February 4, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,550,279
Issued: June 23, 2009
Application No. 10/902,019
Filed: July 30, 2004
Attorney Docket No. 26587-205481

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(D)" filed August 20, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred seventy-three (273) days to four hundred twenty-nine (429) days.

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

On June 23, 2009, the above-identified application matured into US Patent No. 7,550,279 with a patent term adjustment of 273 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 429 days, which includes 156 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (156 days) and the period of Examination Delay (389 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. As such, patentees assert entitlement to a patent term adjustment of 429 days (389 + 156 reduced by 0 overlap – 116 (applicant delay)).

The Office contends that all 155 days for over three year pendency overlap with the 389 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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.

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, July 30, 2004, to the date the first RCE was filed on January 2, 2008. Prior to the issuance of the patent, 389 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 155 days for Office delay in issuing the patent overlap with the 389 days of Office delay. During that time, the issuance of the patent was delayed by 389 days, not 389 + 155 days. The Office experienced 389 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 389 days of Office delay and the time allowed within the time frames for processing and examination, the application was pending three years and 155 days. The Office did not delay 389 days and then an additional 155 days. Accordingly, 389 days of patent term adjustment (not 389 and 155 days) was properly entered. The period of delay of 155 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 389 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 389 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 155 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Gary B. Nickel	: DECISION ON REQUEST FOR
Patent Number	: 7550279	: RECALCULATION of PATENT
Issue Date	: 06/23/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,019	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Alain LaGRANGE, et al.	:	ON PETITION
Application No. 10/902,029	:	UNDER 37 CFR 1.137(b)
Filed 30 July 2004	:	
Attorney Docket No.: 08847.0011-00000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 09 September 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply completely in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed 30 September 2004, which set a period for reply of two (2) months from the mail date of the Notice and to the ensuing Notice of Incomplete Reply of 16 May 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 01 December 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 a Declaration and Power of Attorney in compliance with 37 CFR 1.53, (2) the petition fee for a large entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 30 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

Wan Laymon
Petitions Examiner
Office of Petitions N.Ho

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

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NOV - 8 2005

Technology Center 2100

In re Application of TABUCHI et al	:	
Application No.: 10/902,031	:	DECISION ON PETITION
Filing Date: July 30, 2004	:	FOR ACCELERATED
For: STORAGE SYSTEM AND METHOD	:	EXAMINATION UNDER
FOR ACQUISITION AND	:	M.P.E.P. §708.02(VIII)
UTILISATION OF SNAPSHOTS	:	

This is a decision on the petition filed September 19, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed September 19, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer

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

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Mailed: 9-21-07

In re application of	:	
Nishio et al.	:	DECISION ON
Serial No. 10/902,032	:	PETITION
Filed: July 30, 2004	:	
For: Method And Apparatus For Plasma Processing	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 For Corrective Action mailed June 13, 2007.

On September 4, 2007, the instant petition under 37 CFR 1.181 was filed.

DECISION

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone/wk

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

Leonid D. Thenor
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
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1800 DIAGONAL ROAD
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TECHNOLOGY CENTER 2100

In re Application of HONDA et al	:	
Application No.: 10/902,054	:	DECISION ON PETITION
Filing Date: July 30, 2004	:	FOR ACCELERATED
For: RESERVE/RELEASE CONTROL	:	EXAMINATION UNDER
METHOD	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed November 1, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed November 1, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer

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

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WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Franz Killer and Josef Scherer	:	
Application No. 10/902,075	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 61277-60031	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 20, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

The file is being forwarded to 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/Patent
United States Patent and Trademark Office

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JOSEF SCHERER
OESTRICHER WEG 11
D-60529 FRANKFURT
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OFFICE OF PETITIONS

In re Application of
Franz Killer and Josef Scherer
Application No. 10/902,075
Filed: July 30, 2004
Attorney Docket No. 61277-60031

Dear JOSEF SCHERER:

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/Patent
United States Patent and Trademark Office

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Eiji Fujioka et al	:	
Application No. 10/902,101	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q82733	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 15, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\902101.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22320

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
Hironori Hasei et al
Application No. 10/902,108
Filed: July 30, 2004
Attorney Docket No. 120587

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 18, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 26, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
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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ALEXANDRIA, VA 22320

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Hironori Hasei et al :
Application No. 10/902,108 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. 120587

This is a decision on the petition filed, July 13, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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GEORGE E. KERSEY
P.O. Box 836
Lynnfield, MA 01940

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of Tsatsis :
Application No. 10/902,111 : Decision on Petition
Filing Date: July 30, 2004 :
For: Air Drive Electric Charging :

This is a decision in response to the paper filed May 30, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed November 14, 2005.

Office records fail to indicate a reply was timely filed in response to the non-final Office action.

A Notice of Abandonment was mailed May 30, 2006.

Petitioner contends a reply was timely filed. Petitioner has supplied a copy of the reply. The reply bears a proper certificate of mailing in compliance with the requirements of 37 C.F.R. 1.8(a). The petition complies with the requirements set forth in 37 CFR 1.8(b). In view thereof the reply is considered timely filed.

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

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 request to change the address of record should be filed. 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.

Technology Center Art Unit 2838 will be informed of the instant decision. The copy of the reply filed with the instant petition will be entered 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

cc: Constantinos Tsatsis
607 Salem Street
Lynnfield, MA 01940-2307

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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George E. Kersey
P.O. Box 1073
Framingham, MA 01701

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MAY 06 2008

OFFICE OF PETITIONS

In re Application of Lavin and Kersey :
Application No. 10/902,112 :
Filing Date: July 30, 2004 :
For: Storage and Uncontaminated :
Dispensing of Fluids :

Decision on Petition

This is a decision on the petition filed November 26, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

On April 11, 2007, the Office mailed a final Office action. The Office action set a three (3) month shortened statutory period for reply.

Absent payment for an extension of time, a reply was due on or before July 11, 2007.

Neither a reply nor an extension of time was received in response to the final Office action. As a result, the application became abandoned on July 12, 2007.

A Notice of Abandonment was mailed November 14, 2007.

The instant petition asserts the final Office action was never received and requests withdrawal of the holding of abandonment.

A statement by inventor Kersey is the only evidence provided by petitioner. Kersey states,

> I have checked my records and confirmed that no correspondence from the patent Office for an Office action dated 4/11/[07] has ever been received.

Kersey does not discuss the type of records checked or provide a copy of any records.

The current evidence of record is insufficient to demonstrate non-receipt of the final Office action.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed and delivered to the address of record. In order to overcome this presumption, a petition must establish the chance the Notice was lost

after receipt at the address of record is less than the chance the Notice was lost prior to being delivered to the address of record.

A petition based on non-receipt of an Office action should discuss the actions that would have been taken *if* the Office action had been received. Proof the actions were not taken may be sufficient to establish non-receipt of an Office action.

Evidence will normally take the following form:

(A) The petition states X, Y, and Z actions would have been taken if the Office action was received,

(B) The petition states X, Y, and Z actions were not taken, and

(C) The petition includes, to the extent such papers exist, a copy of papers demonstrating X, Y, and Z actions were not taken.

Petitioners should fully discuss all actions that would have been taken if the Office action had been received. When possible, a copy of documentation demonstrating an action was not taken should be supplied. Any request for reconsideration should ensure all the following matters are addressed.

(1) Would the Office action have been placed in a specific location such as a file being kept for all matters involving the application? If yes, has petitioner searched the location/file to ensure the Notice is not present?

(2) Upon receipt of the Office action, would a written entry have been made in one or more locations? For example, would an entry have been made on the outside of a file? Would an entry have been made on a calendar in order to ensure the due date for responding to the Office action would not be missed? A copy of any papers where the Office action would have been entered if the Office action had been received should be supplied to the Office.

(3) Upon receipt of the Office action, would any electronic records have been made or altered? For example, would an entry have been made into a docketing system in order to ensure the due date to respond to the Office action would not be missed? A copy of a print-out of all papers where the Office action would have been entered if the Office action had been received should be supplied to the Office.

(4) In the instant case, inventor Lavin appointed inventor Kersey to sign prosecute the application on his behalf. The Office action was sent to Kersey. Would Kersey have notified Lavin by email or letter of the receipt of the final Office action? If yes, did Lavin receive an email or letter notifying Lavin of Kersey's receipt of the final Office action?

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. A petition fee is not 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."

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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COLLIER SHANNON SCOTT, PLLC
3050 K STREET, NW
SUITE 400
WASHINGTON DC 20007

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of
Killer, et al.
Application No.: 10/902,117
Filed: July 30, 2004
Attorney Docket No.: 61277-0032
For: METHOD AND APPARATUS FOR MACHINING A BLANK FROM ALL DIRECTIONS IN A MACHINE TOOL OR MILLING MACHINE

DECISION REFUSING 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 inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 30, 2004 without an executed declaration. On September 24, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit an executed oath/declaration and a surcharge for its late filing within an extendable two month period from the mail date of the Notice.

In response, on April 20, 2005, petitioners timely filed a request for a five (5) month extension of time and required fee, a declaration executed by 1 of 2 joint inventors, the surcharge, the instant petition and petition fee. The petition is accompanied by a declaration of fact of Patent Secretary Anett Fabian, who explains that another patent secretary, Yvonne Egger, mailed the non-signing inventor, Josef Scherer, a complete copy of the above-identified patent application along with a declaration and an assignment, but Mr. Scherer refused to take further steps with respect to the

above-identified application in an e-mail dated November 12, 2004 to Ms. Fabian.

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 petition fee of $200, 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 refused to sign the declaration. The statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted.

The Office would like Ms. Egger, the person who allegedly mailed the application papers to Mr. Scherer, to provide a statement regarding the mailing of the application, preferably accompanied by documentary evidence of the mailing.

As stated in MPEP 409.03(d), "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 Office would like a copy of Mr. Scherer's November 12, 2004 e-mail to Ms. Fabian in which he refuses to cooperate further with the filing of this application.

Regarding fees, the current fee for filing a Rule 47 petition is $200.00. Petitioner paid only $130.00 Pursuant to petitioner's authorization, deposit account no. 19-4293 will be charged the $70.00 balance due.

The Power of Attorney filed on April 20, 2005 is not acceptable because this application has not been accorded Rule 47 status, thus the assignment signed by only one inventor is not sufficient to allow an assignee to appoint representation. In addition, even if Rule 47 status is accorded to the application in the future, this Power of Attorney would not be acceptable because the signer of the document, Evamaria Pöpper did not provide a title. Thus, it is unclear that Ms. Pöpper has the authority to bind the assignee. A courtesy copy of this decision will be mailed to the address listed on the petition. A new Power of Attorney, signed by a party with appropriate authority, should be submitted with any reconsideration petition.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: STEPTOE & JOHNSON, LLP
1330 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036

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United States Patent and Trademark Office
P.O. Box 1450
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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
Killer, et al.
Application No.: 10/902,117
Filed: July 30, 2004
Attorney Docket No.: 61277-0032
For: METHOD AND APPARATUS FOR MACHINING A BLANK FROM ALL DIRECTIONS IN A MACHINE TOOL OR MILLING MACHINE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed July 22, 2005.

The petition is **GRANTED**.

The above-identified application was filed on July 30, 2004 without an executed declaration. On September 24, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit an executed oath/declaration and a surcharge for its late filing within an extendable two month period from the mail date of the Notice.

In response, on April 20, 2005, petitioners timely filed a request for a five (5) month extension of time and required fee, a declaration executed by 1 of 2 joint inventors, the surcharge, a Rule 47(a) petition, and petition fee. The petition was accompanied by a declaration of fact of Patent Secretary Anett Fabian, who explains that another patent secretary, Yvonne Egger, mailed the non-signing inventor, Josef Scherer, a complete copy of the above-identified patent application along with a declaration and an assignment, but Mr. Scherer refused to take further steps with respect to the above-identified application in an e-mail dated November 12, 2004 to Ms. Fabian.

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 petition fee of $200, and
(4) the last known address of the omitted inventor(s).

The April 20, 2005 petition lacked item (1) above.

With the instant reconsideration petition, petitioner has established that the inventor has refused to sign the declaration. Ms. Egger, patent secretary working for Alstom Technology Ltd., has provided a statement and exhibits that show Mr. Scherer was mailed and received the application and subsequently expressly refused to cooperate in the filing of the above-identified application in a November 12, 2004 e-mail (copy submitted).

Taking the original and the reconsideration petitions together, petitioner has satisfied all Rule 47(a) petition requirements. Therefore, the petition under 37 CFR 1.47(a) is granted.

The Power of Attorney filed on July 22, 2005 has been entered and made of record. Please find enclosed correspondence regarding the change in power of attorney.

After the mailing of this decision, the application will be forwarded to Technology Center G.A.U. 3722 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: 2 Notices regarding change in power of attorney

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United States Patent and Trademark Office
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JOSEF SCHERER
OESTRICHER WEG 11
D-60529 FRANKFURT
GERMANY

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
Killer, et al.
Application No.: 10/902,117
Filed: July 30, 2004
Attorney Docket No.: 61277-0032
For: METHOD AND APPARATUS FOR MACHINING A BLANK FROM ALL DIRECTIONS IN A MACHINE TOOL OR MILLING MACHINE

LETTER

Dear Mr. Scherer:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Tseng-Lu Chien
Application No. 10/902,123
Filed: July 30, 2004
Attorney Docket No. CHIE3060CIP/BEU

This is a decision in response to the petition, filed March 8, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed February 17, 2006. A Notice of Abandonment was mailed on November 20, 2006. In response, on March 8, 2007, the present petition was filed.

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

The application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received March 8, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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APR 23 2010

OFFICE OF PETITIONS

In re Application of :
Chien :
Application No. 10/902,123 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. CHIE3060CIP/BEU :
For: HEAD LIGHT KITS FOR FOOTWEAR

This is a decision on the petition, filed September 18, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the Notice of Noncompliant Amendment mailed January 15, 2009, which set an extendable one month/30 day period for reply. The Office has no record of receiving an extension of time or a reply to the January 15, 2009 Notice in Application No. 10/902,123. Therefore, the Office considered the application abandoned on February 16, 2009. A Notice of Abandonment was mailed on August 28, 2009.

Petitioner asserts that a proper response, in the form of an amendment and a petition for a one month extension of time and $65.00 fee, was timely filed on February 18, 2009. A review of the copy of the response allegedly filed on February 18, 2009 that was submitted with the instant petition reveals that applicant listed the application number as 11/902,123. It is noted that applicant listed the same incorrect application number on the *instant petition*, as well. A review of the application file of Application No. 11/902,123 reveals the response to the January 15, 2009 Notice is present. A review of the financial records for Application No. 11/902,123 reveals a $65.00 check for one month extension of time was received on mailroom date February 18, 2009. In short, the February 18, 2009 amendment was timely filed, but was not associated with Application No. 10/902,123.

Even though applicant cited the wrong application number on the amendment, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the February 18, 2009 correspondence with this

application file. A cross-referencing of any of the accurate identifiers found on the amendment with Office databases would have revealed the typographical error.

The undersigned will request that the February 18, 2009 amendment be removed from the file of Application No. 11/902,123 and placed in the file of the above-identified application. In addition, Office financial records will be altered to reflect that the $65.00 one month extension of time was paid in Application No. 10/902,123 on mailroom date February 18, 2009.

The February 18, 2009 amendment was timely filed. Accordingly, the petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center AU 2885 for consideration of the amendment filed on February 18, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JAN 19 2007

OFFICE OF PETITIONS

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

In re Application of :
Victory Hui-Yang Ko, et al. :
Application No. 10/902,124 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. KOVI3001/EM :

This is a decision on the petition under 37 CFR 1.137(b), filed by June 29, 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 29, 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 June 13, 2005. In response, on June 29, 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 June 29, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERESKIN AND PARR
SCOTIA PLAZA
40 KING STREET WEST – SUITE 4000 BOX 401
TORONTO, ON M5H 3Y2
CANADA

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Hakka et al.	:	
Application No. 10/902,134	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 10539-17/PMdC	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 13,2007

TO SPE OF : ART UNIT ~~2851~~ 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/902,150 Patent No.: 7189014 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

PATRICK ASSOUAD
SUPERVISORY PATENT EXAMINER

Copied from 11902150 on 02/07/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
John G. Gordon
Application No. 10/902,194
Filed: July 29, 2004
Attorney Docket No. GOR 1625-003

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED.**

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on August 11, 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 months publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 10, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 1615 for examination in due course.

Karen Creasy

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

Attachment: Communication Regarding Rescission of Nonpublication Request

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SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P. O. BOX 2463
HOUSTON TX 77252-2463

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DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Matthew Robert George Bell et al. :
Application No. 10/902,203 : DECISION GRANTING PETITION
Filed: July 29, 2004 :
Attorney Docket No. TH-2433 02 (USA) :

This is a decision on the petition filed December 3, 2004, in response to the "Notice to File Corrected Application Papers" mailed September 2, 2004, which is treated under 37 CFR 1.182.

The instant application was filed July 29, 2004 and a filing date was accorded. However, the Notice indicated in addition to compliance issues regarding the drawings, that Figure 6B as described in the specification appeared to have been omitted.

Petitioner asserts that 12 sheets of drawings were filed upon application, that the sheet containing Figure 6B was among those papers filed on July 29 2004, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. While the official file reveals that only eleven sheets of drawings were filed, the postcard receipt, identifies the application and acknowledges, inter alia, that the application totaled 12 sheets of drawings and bears a United States Patent and Trademark Office date-stamp of July 29, 2004. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

Based on petitioners' representations it appears that the 12 sheets of drawings including the one sheet containing Figure 6B was present in the Office on July 29, 2004. However, as required, copies of the one sheet is not filed with the instant petition. The drawings submitted only included eleven sheets and again Figure 6B is not included. Thus, the petition is **DISMISSED** without prejudice to reconsideration because petitioners have not supplied a copy of the sheet containing Figure 6B. Petitioners must supply a copy of the drawing figure with a renewed petition and at that time the petition fee will be refunded to petitioner's deposit account.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended

pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing without the one sheet of drawings containing Figure 6B.

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

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

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

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

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P.O. Box 1450
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OFFICE OF PETITIONS

In re Application of
Matthew Robert George Bell et al.
Application No. 10/902,203
Filed: July 29, 2004
Attorney Docket No. TH-2433 02 (USA)

DECISION DISMISSING PETITION

This is a decision on the renewed petition filed February 7, 2005, in response to the decision dismissing the petition mailed December 20, 2004. The petition is treated under 37 CFR 1.182.

In response to the Notice to File Corrected Application Papers, regarding omitted Figure 6B, a petition was filed December 3, 2004 wherein petitioner relied on a postcard receipt that while it wasn't properly itemized, lacked any notation from the USPTO of non-receipt of any item listed as proof that the drawing figure was included with the original application papers. However, the petition was dismissed because the petitioner failed to include a copy of the drawings that appeared to be omitted with the petition.

Comes now petitioner arguing that the drawing wasn't in fact omitted, that it was included with the drawings filed upon application but that the drawings submitted were dark and thus the USPTO wasn't able to discern that Figure 6B was included on sheet 5 of 11. A review of the file reveals that the drawings submitted on July 29, 2004 are identical to those submitted with the petition on December 3, 2004 and on both sets of drawings, the drawings figure on sheet 5 of 11 is labeled "Figure 6".

It is obvious from the petition however, that no figures were actually missing on July 29, 2004 and on petition December 3, 2004. Rather, the problem with the drawings is that they were mislabeled. The drawings should have been labeled Figure 6A and Figure 6B. However, the "Notice" mailed on September 2, 2004, was correct in stating that Figure 6B described in the specification appeared to have been omitted. In consideration of the new evidence related on the renewed petition, the "Notice" mailed September 2, 2004 was properly mailed and will not be withdrawn.

The Petition is **DISMISSED**.

In view of the above, the present petition was not necessitated by any error on the part of the Office and the $400.00 petition fee was required upon filing of the petition. Thus, the $400.00 petition fee submitted with the renewed petition will not be refunded. However, the petition fee submitted with the petition filed December 3, 2004 will be credited to deposit account no. 19-1800.[1]

The Office of Initial Patent Examination will be notified to process the application with the filing date of July 29, 2004 and to use the application papers filed on that date and the corrected pages of drawings filed on February 7, 2004 with the instant petition.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

[1]Effective November 22, 2004, the petition fee has been increased from $130.00 to $400.00. 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.

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OFFICE OF PETITIONS

In re Application of :
Matthew Robert George Bell et al. :
Application No. 10/902,203 :
Filed: July 29, 2004 : ON PETITION
Atty Docket No. TH-243302(USA) :

This is in response to the petition under 37 CFR 1.47(a) filed July 29, 2004.

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

Upon application and in accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration from parent application no. 10/339,225, filed December 22, 2003, of which the instant application is a division. As well, a petition to accord status under 37 CFR 1.47 was filed in the parent application as not all of the joint inventors had executed the oath or declaration. As it was sufficiently shown that joint inventor Allen Lindfors refused to join in with the filing of that application, the petition filed June 19, 2003 was granted in a decision mailed July 17, 2003. Furthermore, a copy of the decision, mailed July 17, 2003, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as involving moot issues. As no petition fee is necessary, no petition fee has been charged.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

After this decision is mailed, the matter will be referred to the Publishing Division.

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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Eugene R. Montalvo
Shell Oil Company, Legal - Intellectual Property
P. O. Box 2463
Houston, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of
Bell et al.
Application No. 10/902,209
Filed: July 29, 2004
Attorney Docket No. TH-2433 03 (US)

Decision on Petition

This is a decision on the petition filed December 10, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that Figure 6B was part of the originally filed application.

The petition is **dismissed**.

The application was filed on July 29, 2004. On October 29, 2004, a Notice was mailed stating that Figure 6B described in the specification did not appear to be included as part of the application filed.

The present petition alleges that Figure 6B was deposited on July 29, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 12 sheets of drawings on December 10, 2004.[1]

The USPTO file for this application includes only 11 sheets of drawings and does not include a drawing sheet containing Figure 6B described in the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but were later misplaced.

A petition fee has not been charged to petitioner's deposit account.

The Notice mailed October 29, 2004, was sent in error and is hereby vacated.

Normally, the petition would be granted. However, Office records indicate the petition was accompanied by only 11 sheets of drawings. Office records indicate the petition was not accompanied by a copy of Figure 6B. Therefore, the petition cannot be granted. A request for reconsideration, along with a copy of Figure 6B as originally filed, should be submitted.

The petition states, "Enclosed for inclusion in the above-identified application are 10 sheets of formal drawings." A copy of the 10 sheets of formal drawings cannot be located in the file. The Office requests petitioner submit another copy. If the formal drawings are filed along with the request for reconsideration, petitioner should ensure the correspondence clearly indicates which copy of Figure 6B is a copy of the drawing as originally filed.

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

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 1.53."

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 decision in response to the request for reconsideration is not received within three months of the date the petition if filed, 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
Petitions Attorney
Office of Petitions

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Houston, TX 77252-2463

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JUL 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Bell et al. :
Application No. 10/902,209 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. TH-2433 03 (US) :

This is a decision on the petition filed June 13, 2005, requesting, in effect, that the "Notice Of Omitted Item(s)" mailed October 29, 2004, be withdrawn to the extent that it states that Figure 6B appeared to be missing.

The petition is **dismissed**.

The application was filed on July 29, 2004.

Although the postcard receipt indicated that 12 sheets of drawings were filed, only 11 sheets of drawings were filed.

Page 6 of the drawings contains an image too dark to decipher. Below the image is the legend, "FIG. 6." Petitioner states that Figure 6B is contained within the image too dark to decipher.

The specification refers to a Figure 6B. However, the Office of Initial Patent Examination was unable to find a Figure labeled Figure 6B when it reviewed the drawing sheets.

On October 29, 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 29, 2004, and advising applicants that Figure 6B described in the specification appeared to have been omitted. The "Notice Of Omitted Item(s)" was correct in stating that Figure 6B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

A review of the Notice and page 6 of the drawings indicates the Notice was mailed due to the illegibility of the drawing sheet rather than due to a loss of the sheet. If the drawing sheet had been lost or misplaced, the Notice would have stated Figure 6 appeared to be missing. When a Notice of Omitted Items is mailed because a drawing is unlabeled, mislabeled, or illegible, a petitioner may amend the application. A petition is not necessary.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will be charged to petitioner's deposit account.

The 11 sheets of drawings filed on June 13, 2005, will not be entered since they are simply duplicates of the drawings originally filed.

Inexplicably, the 10 sheets of formal drawings filed with the instant petition can not be located. Petitioner should resubmit the 10 sheets of formal drawings as part of a formal preliminary

amendment. The examiner will consider the amendment for new matter in due course. The Office notes the instant application is a divisional of application no. 10/339,225 and incorporated by reference the contents of the prior application. To the extent the illegible drawing sheets are included as part of the prior application, they will not be considered new matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 29, 2004, using the 11 sheets of drawings filed on that date.

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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Shell Oil Company, Legal - Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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OFFICE OF PETITIONS

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ANS'D		BY	
NO REPLY NEEDED			
		DATE	

ON PETITION

In re Application of
Bell et al.
Application No. 10/902,209
Filed: July 29, 2004
Attorney Docket No. TH-2433 03 (US)

This is a decision on the petition filed June 13, 2005, requesting, in effect, that the "Notice Of Omitted Item(s)" mailed October 29, 2004, be withdrawn to the extent that it states that Figure 6B appeared to be missing.

The petition is **dismissed**.

The application was filed on July 29, 2004.

Although the postcard receipt indicated that 12 sheets of drawings were filed, only 11 sheets of drawings were filed.

Page 6 of the drawings contains an image too dark to decipher. Below the image is the legend, "FIG. 6." Petitioner states that Figure 6B is contained within the image too dark to decipher.

The specification refers to a Figure 6B. However, the Office of Initial Patent Examination was unable to find a Figure labeled Figure 6B when it reviewed the drawing sheets.

On October 29, 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 29, 2004, and advising applicants that Figure 6B described in the specification appeared to have been omitted. The "Notice Of Omitted Item(s)" was correct in stating that Figure 6B described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

A review of the Notice and page 6 of the drawings indicates the Notice was mailed due to the illegibility of the drawing sheet rather than due to a loss of the sheet. If the drawing sheet had been lost or misplaced, the Notice would have stated Figure 6 appeared to be missing. When a Notice of Omitted Items is mailed because a drawing is unlabeled, mislabeled, or illegible, a petitioner may amend the application. A petition is not necessary.

Since the present petition was not necessitated by any error on the part of the Office, the $400 petition fee will be charged to petitioner's deposit account.

The 11 sheets of drawings filed on June 13, 2005, will not be entered since they are simply duplicates of the drawings originally filed.

Inexplicably, the 10 sheets of formal drawings filed with the instant petition can not be located. Petitioner should resubmit the 10 sheets of formal drawings as part of a formal preliminary

amendment. The examiner will consider the amendment for new matter in due course. The Office notes the instant application is a divisional of application no. 10/339,225 and incorporated by reference the contents of the prior application. To the extent the illegible drawing sheets are included as part of the prior application, they will not be considered new matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 29, 2004, using the 11 sheets of drawings filed on that date.

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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DAVID R PRESTON & ASSOCIATES APC
5850 OBERLIN DRIVE
SUITE 300
SAN DIEGO CA 92121

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of	:	
SOMMERS	:	
Application No. 10/902,236	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. MS-00101.P.1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2006.

The request is **APPROVED**.

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

The request was signed by David R. Preston on behalf of all practitioners associated with Customer No. 24232. All practitioners associated with the Customer Number 24232 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 February 21, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MICHAEL SOMMERS
113 AVENEDA DEL REPOSO, #D
SAN CLEMENTE CA 92672

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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
10/902,236	07/29/2004	Michael J. Sommers	MS-101.P.1

CONFIRMATION NO. 9956

OC000000019300955

24232
DAVID R PRESTON & ASSOCIATES APC
5850 OBERLIN DRIVE
SUITE 300
SAN DIEGO, CA 92121

Date Mailed: 06/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2006.

- 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.

DENISE M POTHIER
OP (571) 272-4787

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/902,239	07/29/2004	David George Solt JR.	200402150-1	9947

7590 04/17/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
NGUYEN, VAN H

ART UNIT	PAPER NUMBER
2194	

NOTIFICATION DATE	DELIVERY MODE
04/17/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/17/2008 DTERRY 10902239
11/30/2004 SSESHE1 00000035 082025
01 FC:1202 36.00 CR

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JAMES A. QUINTON, ESQ.
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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OFFICE OF PETITIONS

In re Application of :
John E. Batey et al :
Application No. 10/902,240 : DECISION GRANTING PETITION
Filed: July 29, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 487.001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 2006, and resubmitted on May 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply(2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of October 5, 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 Patent Publications and for review of the drawings submitted with the instant petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OLSON & BEAR LLP
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FOURTEENTH FLOOR
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OFFICE OF PETITIONS

In re Application of	:	
Basol, et al.	:	
Application No. 10/902,241	:	DECISION
Filing Date: 29 July, 2004	:	
Attorney Docket No.: ASMNUT.000GEN	:	

This is a decision on the petition filed on 30 September, 2005, averring non-receipt of an Office action and so considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137(a) and (b).

The Office regrets the delay in addressing this matter, however, the petition was not received by the attorneys in the Office of Petitions until this writing.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; the petition under 37 C.F.R. §1.137(a) is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be

expected.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Petitioner apparently was not Counsel of record at the time the application went abandoned and thus cannot make the statement of unintentional delay. To this end, the regulatory statement of unintentional delay by the Applicant, former Counsel or Assignee (with the required certificate under 37 C.F.R. §3.73(b)) will be necessary.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the Notice of Missing Parts (oath/declaration and replacement drawings)–copy enclosed–mailed on 29 September, 2004, with reply due absent and extension of time on or 29 November, 2004;
- the instant application went abandoned after midnight 29 November, 2004;
- the Office mailed a Notice of Abandonment on 8 September, 2005;

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[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

- on 29 September, 2005, Petitioner filed the instant petition(s) (with fee authorization), but filed no reply to the Office action in question; averred non-receipt of the Office action in question; acknowledged that the Applicant moved without the required advance Notice of Change of Address to the Office; indicated that Petitioner had since undertaken representation in the matter; also improvidently sought relief under 37 C.F.R. §1.55 and 37 C.F.R. §1.316 (which, as a courtesy to Petitioner, will not be considered at this time because to do so would require the charging of additional fees, however, Petitioner may elect to reassert these averments is she considers it proper and necessary to do so).

Petitioner is referred to the guidance in the Commentary at MPEP §403.[2]

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[2] The commentary at MPEP §403 provides, in pertinent part:

403 Correspondence — With Whom Held [R-3]
37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * *

37 CFR 1.33(a) provides for an applicant to supply an address to receive correspondence from the U.S. Patent and Trademark Office so that the Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person.

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. >If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.<

37 CFR 1.33(a) requests the submission of a daytime telephone number of the party to whom correspondence is to be addressed. While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to writing. The telephone number would be changeable by any party who could change the correspondence address.

37 CFR 1.33(a)(1) provides that any party filing the application and setting forth a correspondence address could later change the correspondence address provided that a 37 CFR 1.63 oath/declaration by any of the inventors has not been submitted. If one joint inventor filed an application, the person who may change the correspondence address would include only the one inventor who filed the application, even if another inventor was identified on the application transmittal letter. If two of three inventors filed the application, the two inventors filing the application would be needed to change the correspondence address. Additionally, any registered practitioner named in the application transmittal letter, or a person who has the authority to act on behalf of the party that will be the assignee (if the application was filed by the party that will be the assignee), could change the correspondence address. A registered practitioner named in a letterhead would not be sufficient, but rather a clear identification of the individual as being a representative would be required. A company (to whom the invention has been assigned, or to whom there is an obligation to assign the invention) who files an application, is permitted to designate the correspondence address, and to change the correspondence address, until such time as a (first) 37 CFR 1.63 oath/declara-tion is filed. The mere filing of a 37 CFR 1.63 oath/ declaration that does not include a correspondence address does not affect any correspondence address previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney >or agent< has been duly appointed to prosecute an application>,< correspondence will be held with the attorney >or agent< unless some other correspondence address has been given. >If an attorney or agent of record assigns a correspondence address which is different than an address where the attorney or agent normally receives mail, the attorney or agent is reminded that 37 CFR 10.57 requires the attorney or agent to keep information obtained by attorney/agent – client relationship in confidence.< Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).

If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

* * *

I. < CUSTOMER NUMBER PRACTICE

A Customer Number (previously a "Payor Number") may be used to:

(A) designate the correspondence address of a patent application **>or patent< such that the correspondence address for the patent application >or patent< would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(i))<;

(B) designate the fee address (37 CFR 1.363) of a patent ** such that the fee address for the patent would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(ii))<; and

(C) submit a list of practitioners ** such that ** those practitioners associated with the Customer Number >would have power of attorney (37 CFR 1.32(a)(4)(iii))<.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.

Applicant may use either the same or different customer number(s) for the correspondence address, the fee address and/or a list of practitioners. The customer number associated with the correspondence address is the Customer Number used to obtain access to the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov. See MPEP § 1730 for additional information regarding PAIR.

* * *

The Office will also accept requests submitted electronically *via* a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number**>.<

Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the *Federal Register* at 61 FR 54622, 54623-24 (October 21, 1996), and in the *Official Gazette* at 1191 O. G. 187, 188-89 (October 29, 1996). >Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the *Official Gazette* at 1272 O.G. 24 (July 1, 2003).<

**>With Customer Number practice, a< patentee **>is also< able to designate a "fee address" for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a "fee address" by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the Office will send maintenance fee correspondence to the address associated with the Customer Number designated as the "fee address" and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.

The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (i.e., without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number >by submitting a corresponding "Request for Customer Number Data Change" (PTO/SB/124)< will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant >or assignee of the entire interest of the applicant< who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number *>is< optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application>, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3)<.

The Customer Number practice does not affect the prohibition against, and does not amount to, an appointment of a law firm (rather than specified practitioners). The Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment. The Office will permit an appointment of all of the practitioners associated with a specified Customer Number because the Office can ascertain from its records for the specified Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any othercorrespondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources. >Furthermore, Office computer systems do not allow for entry of both a power of attorney to a list of practitioners associated with a Customer Number and a list of practitioners.<

Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents

Petitioner also is directed to the guidance in the Commentary at MPEP §603.[3]

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with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a *>Mail Stop< designation for correspondence related to a Customer Number ("**>Mail Stop EBC<"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this *>mail stop< designation. The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).

* * *

[3] The commentary at MPEP§603 provides in pertinent part:

601.03 Change of Correspondence Address |R-3|

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

**>

(a)Correspondence address and daytime telephone number.

When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:<

(1) *Prior to filing of § 1.63 oath or declaration by any of the inventors.* 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 registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* 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).

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37 CFR 1.33(a) provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. **>If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. Additionally, applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).<

The submission of a daytime telephone number of the party to whom correspondence is to be addressed is requested pursuant to 37 CFR 1.33(a). While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to * writing. Any party who could change the correspondence address could also change the telephone number. 37 CFR 1.33(a)(1) provides that the party filing the application and setting forth a correspondence address may later change the correspondence address provided that an executed oath or declaration under 37 CFR 1.63 by any of the inventors has not been filed. If a registered attorney or agent filed the application, any other registered practitioners named in the transmittal letter may change the correspondence address. A registered

The record is clear that:

- the Notice in question was mailed on 29 September, 2004, to the address of record and the application went abandoned after midnight 29 November, 2004;
- however, the Applicant had moved and provided no advance Notice to the Office;
- Petitioner filed a Revocation/Power of Attorney on 22 February, 2005, and was not empowered in the instant matter until that time.

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practitioner named in a letterhead would not be considered as being named in the transmittal letter for purposes of changing the correspondence address. A clear identification of the individual as a representative would be required. If an application is filed by a company to whom the invention has been assigned or to whom there is an obligation to assign the invention, a person who has the authority to act on behalf of the company may change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address pursuant to 37 CFR 1.33(a)(1). The filing of an executed oath or declaration that does not include a correspondence address does not affect any correspondence address previously established on filing of the application, or changed pursuant to 37 CFR 1.33(a)(1).

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 registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(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).

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. See MPEP § 403 for Customer Number Practice. In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. The original notice may either be sent to the Office of Enrollment and Discipline as notification to the Attor-ney's Roster of the change of address, or may be retained by applicant. See MPEP § 502.02.

Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).

See MPEP § 711.03(c) for treatment of petitions to revive applications abandoned as a consequence of failure to timely receive an Office action addressed to the old correspondence address.

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.

The obligation (see 37 CFR *>11.11<) of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the register is separate from the obligation to file a notice of change of address filed in individual applications. See MPEP § 402.

From a technical aspect, the provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), Petitioner waited ten (10) months after abandonment to seek relief under the regulation.

Further, Petitioner is reminded that to take advantage of the provisions of 37 C.F.R. §1.137(a) or (b) one must not only file a petition and pay a fee, but also must file a reply and make a showing of unavoidable or unintentional delay, respectively.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8] And the Petitioner must be diligent in attending to the matter.[9] 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

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Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[5] 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.

[6] 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.

[7] 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).

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

[9] 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.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

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.[11]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket 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.

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[10] 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.

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[12]) requires that relief be sought within two (2) months of the act complained of.

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[12] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by 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.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the "showing" or "timeliness" requirements described above.

As to the Allegations
of Unavoidable Delay

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

As of this writing Petitioner has not satisfied the "reply" and "showing/statement" requirement of the regulation.

As to the Allegations
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.

As of this writing Petitioner has not satisfied the "reply" and "showing/statement" requirement of the regulation. As to satisfying the "statement/showing" requirement under the regulation, Petitioner will require that statement from the applicant(s) or assignee(s) (with certificate under 37 C.F.R. §3.73(b)) in support of the petition .

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; the petition as considered under 37 C.F.R. §1.137(a) is **dismissed**; and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[13]

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[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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[15]) 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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[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[15] 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.

O I P E IAP19
SEP 30 2005
PATENT & TRADEMARK OFFICE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), 37 CFR 1.55(b), OR 37 CFR 1.316(b)

First named inventor:	Basol
App. No.:	10/902,241
Filed:	July 29, 2004
Title:	METHOD AND SYSTEM FOR CONTROLLED MATERIAL REMOVAL BY ELECTROCHEMICAL POLISHING
Examiner:	Unknown

Group Art Unit: 1742

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Mail Stop PETITION, Alexandria, VA 22313-1450, on

September 28, 2005
(Date)

Tina Chen, Reg. No. 44,606.

EXPLANATION FOR UNAVOIDABLE ABANDONMENT

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

ATTN: Mail Stop Petition

The above-identified application became abandoned for failure to file a timely and proper response to the Office Action mailed on September 29, 2004, which *presumably* set a one-month period for response. The abandonment date of this application *presumably* is March 30, 2005 (*i.e.*, the day after the expiration of the date of the period set for response, plus any extensions of time obtained therefor).

Applicants respectfully submit that the abandonment of this application was unavoidable because there was no way Applicants could have timely responded to the Notice to File Missing Parts as Applicants never received the Notice to File Missing Parts mailed on September 29, 2004. Therefore, Applicants were unaware of the Notice to File Missing Parts until receipt of the Notice of Abandonment, which was mailed on September 8, 2005 (almost one year later).

Applicants' mailing address has changed since the filing of this application, and Applicants also transferred this application to the Knobbe, Martens, Olson & Bear, LLP firm after the filing of the application. A Revocation and General Power of Attorney as well as a Statement Under 37 C.F.R. §3.73(b) and Change of Correspondence Address was mailed by the Knobbe, Martens firm to the U.S. Patent and Trademark Office on February 15, 2005. Applicants also filed an Information Disclosure Statement, which was mailed on March 7, 2005.

Applicants respectfully submit that the actions set forth above (filing of Power of Attorney, Change of Correspondence Address, and Information Disclosure Statement) demonstrate that Applicants did not intend to abandon the application. In fact, the abandonment of this application was unavoidable because Applicants have never received the Notice to File Missing Parts and were unaware of it until the Notice of Abandonment was received.

Since Applicants have never received the Notice to File Missing Parts and are unable to properly and fully respond to the Notice, Applicants respectfully request that a copy of the Notice be sent to the new Correspondence Address associated with Customer Number 20,995.

Applicants respectfully request that this Petition to Revive for Patent Abandoned Unavoidably be granted. If this Petition to Revive for Patent Abandoned Unavoidably is denied, Applicants respectfully request that, in the alternative, that a Petition to Revive for Patent Abandoned Unintentionally, be granted. Please charge any additional fees to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sept. 28, 2005

By: _____

Tina Chen
Registration No. 44,606
Attorney of Record
Customer No. 20,995
(415) 954-4114

1958773
092805

Petitions Practice Within the USPTO on Patent Matters

This page provides some of the basic principles of **petitions practice**. As with all aspects of patent prosecution, there are laws and regulations that must be followed by employees of the USPTO in the area of petitions. The USPTO recommends that inventors and applicants unfamiliar with the patent laws, rules, and USPTO procedures, consult a registered patent attorney or agent to conduct the prosecution of their patent applications. Although the USPTO may not recommend a particular patent attorney or agent, you can select from **a list of patent attorneys and agents** registered to practice before the USPTO.

> The links provided in this text will take you to a page on the USPTO website where you can either view or download the cited **law**, **rule**, or **Manual of Patent Examining Procedure (MPEP)** section. At this time it is not possible to directly link to a specific section for all citations of **Laws (35 U.S.C.)** or **Rules (37 C.F.R.)**. Since all such links take you to the same location, just click on any similar linked citation. After you view the citation in which you are interested, use your browser's *[BACK]* button to return to this page.
>
> Links to **printable forms** (where provided) should take you directly to the form if you have a current version of **Adobe Acrobat Reader** properly loaded. >> **view all USPTO forms**

For those patent matters that are not subject to an appeal to the Board of Patent Appeals and Interferences and the federal courts, supervisory and administrative review is conducted, in part, by the rendering of decisions on petitions. The Director of the USPTO (formerly the Commissioner) has **delegated** to appropriate USPTO officials the **authority to decide certain petitions**. The various delegations are set forth in **Chapter 1000** of the **MPEP**. The more common types of petitions handled in the Office of Petitions are identified below and the requirements which must be met for the granting of a petition are discussed. Where appropriate, links to other information are provided.

REQUIREMENTS OF A PETITION

In general each petition has **five (5) requirements**. These requirements are as follows:

1. The petition must be **in writing**, 37 CFR 1.2.

   All business with the USPTO is transacted in writing. The petition should be directed to the USPTO official delegated the authority to decide that petition. See MPEP Chapter 1000. Since different matters may be considered by different branches or sections of the USPTO, each distinct subject, inquiry or request should be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. 37 **CFR 1.4(c)**.

2. The petition must contain a **statement of facts** involved, the **point(s)** to be reviewed and the **action requested**, 37 CFR 1.181(b).

   The care and completeness with which petitions are drafted can clearly influence the decision rendered. 37 CFR **1.181(b)** sets forth the general requirements for the content of a petition. The petition must contain a statement of the facts involved, the point(s) to be reviewed and the action or relief requested. The petition submitted should be as complete as possible and any evidence necessary should be submitted. Any error(s) in a requirement or action on the part of the USPTO should be clearly set forth with the reasons why such requirement or action is considered improper.

3. The petition must be **accompanied by a fee**, if required, in order to avoid the petition being summarily dismissed, 37 CFR 1.181(d).

To avoid a petition being summarily dismissed for lack or insufficient fee, petitioner should make certain that the correct petition fee is submitted along with the petition. See the **updated fee sheet** for guidance.

4. The petition must be **timely filed**, as required in 37 CFR 1.181(f), or as required in a specific statute or regulation.

Generally a petition not filed within two (2) months from the action complained of may be dismissed as untimely. Further, the mere filing of a petition will not stay the period for replying to an examiner's action that may be running against an application or act as a stay of other proceedings. **37 CFR 1.181(f).**

5. The petition must **comply with** any **specific requirements** as provided by statute, regulation or USPTO policy.

Care should be taken to review the applicable statute, regulation or USPTO policy to determine if there are other requirements that need to be met in submitting the petition.

Specific Types of Petitions Treated in the Office of Petitions

Inventor Unavailable • Correct Filing Date • Abandonment or Lapse • Maintenance Fee

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A. Petitions to Permit Filing a Patent Application When An Inventor Refuses or Cannot Be Reached to sign the Oath or Declaration **See MPEP 409.03**

Where a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, a petition under **37 CFR 1.47(a)** may be filed to permit acceptance of an **application filed by the other inventor**(s) on his or her behalf and that of the non-signing inventor. The submission must set forth the **diligent efforts** made to contact the non-signing inventor, the **required fee** and the **last known address** of the non-signing inventor.

Similarly, whenever all of the inventors or the sole inventor refuse(s) to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventors have assigned or agreed in writing to assign the invention or who otherwise shows **sufficient proprietary interest** in the matter justifying such action may file an application for patent on behalf of the non-signing inventor(s). A petition to permit filing under 37 CFR **1.47(b)** must be submitted with the **oath or declaration** executed by the Rule 47 applicant on behalf of the non-signing inventor(s).

Either of the above petitions must include:

1. **Proof** that the **non-signing inventors** were presented with the application papers and **refused to sign** the oath or declaration or that the non-signing inventor(s) **could not be found** or reached after diligent effort;

2. The **required fee**; and

3. The **last known address** of the non-signing inventor(s).

Additionally, when filing under **37 CFR 1.47(b)** petitioner must provide **proof of proprietary interest** and state that the filing of the application for patent is **necessary to preserve the rights** of the parties or to prevent irreparable damage. Proof of proprietary interest may be provided with a copy of an **assignment**, a **written agreement** to assign or a **memorandum of law** establishing that a court of competent jurisdiction would award title of the invention to the Rule 47 applicant.

In a **continuation or divisional** application, a copy of an **oath or declaration** from a prior application may be filed. If a petition under **37 CFR 1.47** was granted in the **prior application** and the non-signing inventor(s) did not later join in the application, a copy of the **decision granting status** under **37 CFR**

1.47 in the prior application must also be filed.

B. Petitions to Obtain or Correct a Filing Date **See MPEP 600**

37 CFR 1.53 provides procedures for filing patent applications. All applications filed under 37 CFR **1.53(b)** require a **specification**, including at least one **claim**, **drawings, if necessary** to understand the claimed subject matter, an oath or declaration, and the required **filing fee**. Before an application is examined to determine patentability, the application, by law, must be complete so as to receive an official filing date. If the application is complete, the applicant will receive a filing date receipt. Failure to file a complete application will result in the USPTO forwarding a communication to the applicant noting that errors/problems exist in the application filing which require correction.

When filing an application for patent, applicant is encouraged to submit a **self addressed postcard** with the application papers. See **MPEP 503**. The postcard should indicate **what is being submitted** to the USPTO. For example only, the postcard should state "transmitted herewith is an application for patent for John J. Johns, including 5 pages of specification, 6 claims, 4 sheets of drawings having 9 figures therein, a signed declaration, and a check in the amount of $_____for the statutory filing fee." (Be sure to check the latest **fee sheet** for the correct amount of fees to submit.) The postcard will be date stamped by the USPTO mailroom and will serve as proof of what was submitted by applicant. It is important that the postcard **itemize all of the components** of an 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 USPTO.

Once the official filing receipt for the patent application is received, a **review of the filing receipt** should be made to ascertain whether the filing date and other application data are correct. If the information there on is **incorrect**, applicant should **promptly contact the USPTO**. Keep in mind that the **filing date receipt is not an indication that a patent will issue**. It merely signifies that a complete application has been filed and that the application will be forwarded to a patent examiner for examination purposes.

To provide applicants with a more detailed recitation of the **typical types of errors** committed in filing applications and how to rectify such errors, the following topics and discussion relating thereto is provided.

1. Common Errors When Filing Applications

- The application is not accompanied by a **return postcard listing the parts** of the application in sufficient detail to serve as evidence of the exact papers which were filed.
- The application is not accompanied by the **correct filing fee** or the appropriate declaration for application (see for example, **http://www.uspto.gov/web/forms/sb0001.pdf**).
- The applicant wants the **date the application was mailed** to the USPTO as the application filing date, but fails to use the "**Express Mail** Post Office to Addressee" service of the **U.S. Postal Service** to deliver the application. **Only** the **"Express Mail Post Office to Addressee"** service of the **US Postal Service** can be used to **obtain the date of mailing as** an **application filing date.**
- The applicant fails to retain a **complete copy** of the application.
- The **nonprovisional** application is filed without a **claim**.
- The copy of the application forwarded to the USPTO is **missing** one or more **pages** of the **specification** or **drawings**.
- The application is filed without a **correspondence address**.

2. Things to Remember

- The patent application process is **complex**. The USPTO cannot assist in the preparation of application papers. If you are ready to apply for a patent, we strongly advise you to contact a **registered patent attorney or agent** to assist you.

- There are **several types of patent application**, for example, utility, design, provisional, nonprovisional, each of which requires different filing fee and has a different legal effect.
- The application **must** be accompanied by a **request not to publish** the application, **if pre-patent grant publication is not desired.**

3. Remedy to Correct Errors

The usual remedy to correct a 37 CFR 1.53 filing error is to file a petition directed to the Office of Petitions explaining the delay in submitting the omitted item . Any missing items should accompany the petition and should be accompanied by the fee required by **37 CFR 1.17(h)**.

Remember, copendency cannot be waived as it is a **statutory** requirement. Therefore, applicant must petition to revive the parent application under 37 CFR 1.137 to obtain copendency if the parent application became abandoned prior to filing of the continuing application.

4a. Express Mail Errors

Typical Errors committed by applicants who use the provisions of 37 CFR 1.10 ("Express Mail" procedures) are described below.

- Problems arise when correspondence is deposited in an **Express Mail drop box late in the day** after the last pick-up has occurred. The **"Date-In" on the label** is the date the Post Office receives the correspondence. Applicants should deposit the correspondence directly with an employee of the US Postal Service at the Post Office window when possible and get a legible copy of the "Express Mail" mailing label with the "Date-In" clearly marked. Applicants should then check the "Date-In" on the receipt. The "Date-In" must be entered by the Post Office, not applicant (See MPEP 513);
- Applicants file **separate papers** or different applications in the same **mailing envelope** which do **not each have the Express Mail** number thereon;
- The **proper postage** has not been provided.
- The Express Mail label is not **properly addressed.**

4b. Remedy to Correct Errors

Express Mail correspondence received in the USPTO, but given a date other than "date-in" on the receipt.

In accordance with **37 CFR 1.10(c)**, one may file a petition to have an earlier filing date accorded, provided that:

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

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

(3) The petition includes a **true copy** of the "**Express Mail**" mailing label showing the "**date-in**" and of any other official notation by the

USPS relied upon to show the date of deposit.

Express Mail correspondence given incorrect date or no date by the USPS.

In accordance with 37 CFR 1.10(d), one may file a petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is **filed promptly** after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

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

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was **deposited** in "**Express Mail Post Office to Addressee**" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Express Mail correspondence not received in the USPTO.

In accordance with 37 CFR 1.10(e), one may file a petition to have such correspondence considered as having been filed in the USPTO on the USPS deposit date, provided that:

(1) The petition is **filed promptly** after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(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;"

(3) The petition includes a **copy** of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the **number** of the "Express Mail" mailing **label** thereon, a copy of any returned **postcard receipt**, a copy of the "Express Mail" mailing **label** showing the "**date-in**," a copy of any other **official notation by the USPS** relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph B(3), above, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a **statement** which establishes, to the satisfaction of the Commissioner, the **original deposit** of the

correspondence, and that the copies of the **correspondence**, the copy of the "Express Mail" mailing **label**, the copy of any returned **postcard receipt**, and any **official notation entered by the USPS** are **true copies** of the originally mailed correspondence and original " Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

5a. Missing Drawing(s)/Figure(s) or Omitted Specification Page(s)

(1) A **drawing** is required for a filing date where it is necessary for the **understanding of the subject matter** sought to be patented (**35 U.S.C. 111 and 113, 1st sentence)**, or if described in the **specification (MPEP, 506, 601.01 and 608.02)**;

(2) Check the application before filing to ensure that any **drawing referred** to in the **specification** is present;

(3) Check the drawings to ensure that each **figure** is properly **labeled**;

(4) **Number each page** of the **specification** in consecutive order and review the application for **completeness** before filing;

(5) A **postcard receipt** should contain a **specific itemization** of all the items being submitted (MPEP 503). Therefore, the post card receipt should specifically itemize the number of pages of the specification, the number of pages of the declaration and the number of sheets of drawings (including the number of figures contained thereon) being submitted. (Note: hundreds of postcard receipts each year are never returned to counsel because correct postage or return address is lacking);

(6) The best evidence of what the Office received is a properly itemized postcard receipt stamped with the mail room date.

5b. Remedy to Correct Errors

If an application is filed without all the pages of the specification or without all of the figures of the drawings, the Office will still accord a **filing date** to any application that contains something that can be construed as a **written description**, any **necessary drawing**, and, in a nonprovisional application, **at least one claim**. The Office will mail a notice to applicant indicating that the application has been accorded a filing date, but is missing pages of the specification or figures of drawings. The mailing of the notice will permit applicant to either: (1) promptly establish prior receipt in the USPTO the pages at issue (generally by way of a date-stamped postcard receipt); or (2) promptly submit the omitted page(s) and accept the date of submission as the application filing date. See MPEP 601.01 (d).

An applicant asserting that the page(s) was in fact deposited in the Office with the application papers must promptly file a petition under 37 CFR 1.53(e) (and the petition fee under 37 CFR 1.17(h) which will be refunded if it is determined that the page(s) was in fact received by the USPTO) with evidence of such deposit.

Applicants desiring to submit the omitted page(s) and accept the date of submission as the application filing date must promptly submit the omitted pages or drawings and

include an oath or declaration in compliance with **37 CFR 1.63 and 1.64** referring to such page(s) and a petition under **37 CFR 1.182** (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date.

Failure to promptly (within an extendable **two month** period) file a petition under 37 CFR 1.53(e) or 1.182 in response to such notice will result in the Office treating the application as including only those papers originally deposited. Amendment of the specification is required in a nonprovisional application to renumber the pages consecutively and to cancel any incomplete sentences.

Petitions to obtain or correct a filing date should be directed to the attention of the **Office of Petitions** and must include the **petition fee** or an authorization to charge the petition fee to a deposit account. If the petition alleges that **no defect exists**, a **request for refund** of the petition fee maybe included in the petition.

C. Petitions Relating to Abandoned Applications or Lapsed Patents **See MPEP 711.03 (c)**

Revival

37 CFR 1.137 covers petitions to revive applications abandoned for failure to **prosecute**, or failure to pay the required **issue fee** and petitions to revive a lapsed patent for failure to pay any balance of the issue fee due. There are two kinds of petitions to revive identified in this regulation. 37 CFR 1.137(a) addresses revival based upon an **unavoidable** delay in prosecution or payment of the required issue fee, whereas 37 CFR 1.137(b) addresses revival based upon an **unintentional** delay in prosecution or payment of the required issue fee.

(a) Requirements for a petition under **37 CFR 1.137(a)** (delay was **unavoidable**): **>>obtain form**

(1) **Required reply**, unless previously filed.
(2) **Petition fee** set forth in 37 CFR 1.17(l).
(3) Showing that the **entire delay** in filing the required reply from the due date for the reply until the filing of a grantable petition was **unavoidable**.
(4) Any **terminal disclaimer** under 37 CFR 1.321 (with fee; 37 CFR 1.20(d)) dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application if the application is a design application (regardless of filing date) or a utility application filed before June 8, 1995, or a plant patent application filed before June 8, 1995. The terminal disclaimer provisions of this paragraph do not apply to lapsed patents.

(b) Requirements for a petition under 37 CFR 1.137(b) (delay was **unintentional**): **>>obtain form**

(1) **Required reply**, unless previously filed.
(2) **Petition fee** set forth in 37 CFR 1.17(m).
(3) A statement that the **entire delay** in filing the required reply from the due date for the reply until the filing of a grantable petition was **unintentional**. No showing of reasons for delay is necessary. However, the Commissioner may require additional information where there is a question whether the delay was unintentional.
(4) Any **terminal disclaimer** under **37 CFR 1.321** (with fee; 37 CFR 1.20(d)) dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application if the application is a design application (regardless of filing date) or a utility application filed before June 8,1995 or a plant patent application filed before June 8, 1995. The terminal disclaimer provisions of this paragraph do not apply to lapsed patents.

Typical Problems Found in 37 CFR 1.137 Petitions

(1) Statements are filed by a petitioner who was **not** the **party responsible** for **prosecuting** the application at the time of the abandonment. Therefore, the petitioner is not in a position to know whether the delay was unavoidable or unintentional.
(2) The petitioner **attributes fault** for the delay in filing a reply **to an employee** such as a secretary, clerk or courier **without** submitting a **statement** from that person.
(3) Petitions are **not signed** prior to being sent by facsimile transmission or other delivery means to the Office.
(4) Petitioner **intentionally delays** the filing of a petition after first becoming aware of the abandonment. While questions are not normally raised when petitions under the unintentional standard are filed within one year of the date of abandonment, it is not appropriate to intentionally delay the filing of a petition after becoming aware of the abandoned status of the application.
(5) Petitioner does **not** submit a **proper reply** to an **outstanding office action** with the petition. By way of example, amendments filed after a final rejection, do not constitute a proper reply if the examiner refuses to have the amendment entered due to non-compliance with 37 CFR 1.116. Unless an amendment filed after a final rejection clearly places the application in condition for allowance, it is recommended that the reply filed be a Notice of Appeal, a CPA, or RCE.
(6) Petitioners mistakenly believe that **lack of knowledge of the rules** or **reliance on oral statements** by Office employees are acceptable reasons for a petition under the unavoidable standard to be granted.
(7) Some petitioners attempt to revive a provisional application beyond twelve months from filing. While the petition can be filed outside the twelve-month period (usually for copendency), a **provisional application** can **only** be pending for a period of **twelve months** from filing.

THINGS TO REMEMBER

(1) Petitions to revive filed under either the unavoidable or the unintentional standards should be filed within **two months** of becoming aware of the abandonment of the application to avoid any question of timeliness.
(2) Renewed petitions to revive must be filed **within two months** of an **adverse decision** on the earlier petition to revive to be considered timely, unless a proper extension of time up to an additional five months (for a total of seven months) is obtained under 37 CFR 1.136(a). Otherwise, the Office may require a specific showing as to how the entire delay was unavoidable or unintentional.
(3) A petition under 37 CFR 1.137(a) must be accompanied by the **petition fee** set forth in **37 CFR 1.17(l)** and a petition under 37 CFR 1.137 (b) must be accompanied by the petition fee set forth in **37 CFR 1.17(m)**. The petition fee is required by **statute**. *See* 35 U.S.C. 41(a)(7). Thus, the Office cannot grant requests for waiver or reduction of the requisite petition fee.
(4) In a **non-provisional** application abandoned for failure to prosecute, the required reply may be met by the filing of a **continuing application** .
(5) In an application abandoned 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 even if the application is to then be abandoned in favor of a continuing application. In a patent lapsed for failure to pay the balance of issue fee due, the required reply is payment of the balance of issue fee due.
(6) In a **provisional** application abandoned for failure to timely comply with an Office requirement, the reply requirement must be met by a **complete reply** to such Office requirement.
(7) 37 CFR 1.137(b) is applicable to applications abandoned and patents lapsed, regardless of the length of time that the application was abandoned or the patent was lapsed. However, note that 37 CFR 1.137(b) requires that the **entire period of delay**, from the due date of the reply to the date of filing a grantable petition to revive, was **unintentional** for a petition under 37 CFR 1.137(b) to be granted.
(8) While a statement of **unintentional** delay for the entire period of abandonment is generally sufficient, **37 CFR 1.137(b)** authorizes the Office to require additional information when there is a question whether the entire delay was unintentional. In

such instances, the Office may require evidence for each of the three critical periods: (1) the delay in filing a **timely reply** before abandonment of the application or lapse of the patent; (2) the delay in filing an **initial petition** to revive; and (3) the delay in filing a **grantable petition** to revive.
(9) An applicant who deliberately delays the filing of a petition under 37 CFR 1.137 will not be able to show that "the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional".
(10) Examples of situations where unintentional delay was argued but the Office held these activities to constitute **intentional delay**:

(A) where the applicant **deliberately permits** an application to become **abandoned** (i.e., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that an invention lacks sufficient commercial value to justify continued prosecution);

(B) where the applicant **chooses not to seek or persist in seeking revival** of an abandoned application, or where the applicant deliberately chooses to delay seeking revival of an abandoned application;

(11) An **intentional delay** resulting from a deliberate course of action chosen by the applicant **is not affected by:** (a) the correctness of the applicant (or applicant's representative) decision to abandon the application or not to seek or persist in seeking revival of the application; (b) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (c) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

(12) An **intentional abandonment** of an application, or an **intentional delay** in seeking either the withdrawal of a holding of abandonment in, or the revival of, an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137.

(13) Where an applicant **chooses not to** seek **revival** of an application, or chooses **not to persist in seeking revival** after an adverse decision on an earlier petition, the resulting delay cannot be considered to be unavoidable or unintentional.

(14) A **provisional** application can be revived for a period **not to exceed 12 months** from the **date of filing**, even if the petition is filed outside this 12 month period.

D. Relating to Maintenance Fees
Maintenance fees may be paid during the **6 month period** following the **3rd**, **7th**, and **11th** anniversary of issuance of a utility patent. If not timely paid, a **surcharge** will be required between **3 ½ and 4** years, **7 ½ and 8** years, and **11 ½ and 12** years after issuance of the patent. **Utility patents** will **expire** after **4 years, 8 years** and **12 years** from issuance if the maintenance fee and surcharge, if required, are **not timely paid**. The due date for payment of maintenance fees in reissue applications is computed from the date of grant of the original non reissue application. See **MPEP Chapter 2500**.

1. Payment Prior to Expiration **See MPEP 2580**

A patentee who is not satisfied with the USPTO refusal to accept and record a maintenance fee paid prior to expiration of a patent may petition under 37 CFR 1.377. The requirements for acceptance of the payment are:

(1) **Petition** under 37 CFR 1.377;
(2) Filing within **2 months** of action complained of or within the time set in the action complained of;
(3) **Petition fee**; 37 CFR 1.17(h). The petition may include a request for refund of the petition fee if the refusal to accept and record the maintenance fee is determined to be Office error;
(4) **Statement of facts** as outlined at 37 CFR 1.181(b);
(5) **Signature** by registered attorney or party in interest as outlined at 37 CFR 1.377(c);

2. Payment After Expiration **See MPEP 2590**

(a) Requirements when the delay was **unavoidable**. **>>obtain form**

Payment of maintenance fees after expiration of the patent will be accepted and the patent will be reinstated as if it had never expired, provided the following are filed:

(1) **Petition** under 37 CFR 1.378(b) **signed** by registered attorney or party in interest as outlined at 37 CFR 1.378(d).

(2) **Maintenance fee** set forth in 37 CFR 1.20 (e)-(g).

(3) **Surcharge** set forth in 37 CFR 1.20(i)(1).

(4) Showing of **unavoidable delay** including an enumeration of steps taken to ensure timely payment, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

(b) Requirements when the delay was **unintentional**. **>>obtain form**

Payment of maintenance fees after expiration of the patent will be accepted and the patent will be reinstated as if it had never expired, provided the following are filed:

(1) **Petition** under 37 CFR 1.378(c) filed within 24 months after the six-month grace period **signed** by registered attorney or party in interest as outlined at 37 CFR 1.378(d).

(2) **Maintenance fee** set forth in 37 CFR 1.20 (e)-(g).
(3) **Surcharge** set forth in 37 CFR 1.20(i)(2).
(4) A statement that the delay in payment of the maintenance fee was **unintentional**.

3. Reconsideration

A first request for reconsideration will be entertained provided the following are filed within two months, or such other time as set in an adverse decision on a petition filed under 2(a) or 2(b) above:

(1) **Petition** under 37 CFR 1.378(e).

(2) **Petition fee** set forth in 37 CFR 1.17(h).

(3) **All pertinent evidence** or **arguments** presented since no further request for reconsideration will be entertained.

A common error made in the filing of a maintenance fee petition is the **lack of proper identification** (by both the patent number and the application number) of the patent as required by § 1.366(c).

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	ATTORNEY DOCKET NUMBER
10/902,241	07/29/2004	Bulent M. Basol	NT-305-US

CONFIRMATION NO. 9948

FORMALITIES LETTER

OC000000013921344

ASM Nu Tool, Inc.
1655 McCandless Drive
Milpitas, CA 95035

Date Mailed: 09/29/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be made on paper that has a white background (see 37 CFR 1.84 (e)). For example, drawings on graph paper, lined paper, or paper that has a non-white background are not acceptable. See Figure(s) 1-10.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Z. Kruger

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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.: 08-07

Paper No: __

KNOBBE MARTENS
OLSON & BEAR LLP
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IRVINE CA 92614

COPY MAILED
AUG 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Basol, et al.	:	
Application No. 10/902,241	:	DECISION
Filing Date: 29 July, 2004	:	
Attorney Docket No.: ASMNUT.000GEN	:	

This is a decision on the petition filed on 19 October, 2006, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and alternatively seeking revival of the application under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Applicant failed to reply timely and properly to the Notice of Missing Parts (oath/declaration and replacement drawings) mailed on 29 September, 2004, with reply due absent and extension of time on or 29 November, 2004;

- the instant application went abandoned after midnight 29 November, 2004;

- the Office mailed a Notice of Abandonment on 8 September, 2005;

- on 29 September, 2005, Petitioner filed the original petition(s) (with fee authorization), but filed no reply to the Office action in question; averred non-receipt of the Office action in question; acknowledged that the Applicant moved without the required advance Notice of Change of Address to the Office; indicated that Petitioner had since undertaken representation in the matter;[2] and suggested that because Petitioner had not received papers mailed to a previously directed address (Petitioner is referred to the guidance in the Commentary at MPEP §403[3] and §603.[4]) there was basis for relief under 37

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[2] Petitioner also improvidently sought relief under 37 C.F.R. §1.55 and 37 C.F.R. §1.316 (which, as a courtesy to Petitioner, was not considered at the time because to do so required the charging of additional fees that appeared unnecessary, however, Petitioner could elect to reassert these averments if she considered it proper and necessary to do so– she appears not to have done so.

[3] The commentary at MPEP §403 provides, in pertinent part:

403 Correspondence — With Whom Held [R-3]
37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * *

37 CFR 1.33(a) provides for an applicant to supply an address to receive correspondence from the U.S. Patent and Trademark Office so that the Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person.

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. >If more than one correspondence address is specified in a single document, the Office will use the address associated with a Customer Number over a typed correspondence address.<

37 CFR 1.33(a) requests the submission of a daytime telephone number of the party to whom correspondence is to be addressed. While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to writing. The telephone number would be changeable by any party who could change the correspondence address.

37 CFR 1.33(a)(1) provides that any party filing the application and setting forth a correspondence address could later change the correspondence address provided that a 37 CFR 1.63 oath/declaration by any of the inventors has not been submitted. If one joint inventor filed an application, the person who may change the correspondence address would include only the one inventor who filed the application, even if another inventor was identified on the application transmittal letter. If two of three inventors filed the application, the two inventors filing the application would be needed to change the correspondence address. Additionally, any registered practitioner named in the application transmittal letter, or a person who has the authority to act on behalf of the party that will be the assignee (if the application was filed by the party that will be the assignee), could change the correspondence address. A registered practitioner named in a letterhead would not be sufficient, but rather a clear identification of the individual as being a representative would be required. A company (to whom the invention has been assigned, or to whom

there is an obligation to assign the invention) who files an application, is permitted to designate the correspondence address, and to change the correspondence address, until such time as a (first) 37 CFR 1.63 oath/declara-tion is filed. The mere filing of a 37 CFR 1.63 oath/ declaration that does not include a correspondence address does not affect any correspondence address previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney >or agent< has been duly appointed to prosecute an application>,< correspondence will be held with the attorney >or agent< unless some other correspondence address has been given. >If an attorney or agent of record assigns a correspondence address which is different than an address where the attorney or agent normally receives mail, the attorney or agent is reminded that 37 CFR 10.57 requires the attorney or agent to keep information obtained by attorney/agent – client relationship in confidence.< Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).
If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

* * *

I. < CUSTOMER NUMBER PRACTICE
A Customer Number (previously a "Payor Number") may be used to:
(A) designate the correspondence address of a patent application **>or patent< such that the correspondence address for the patent application >or patent< would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(i))<;
(B) designate the fee address (37 CFR 1.363) of a patent ** such that the fee address for the patent would be the address associated with the Customer Number >(37 CFR 1.32(a)(4)(ii))<; and
(C) submit a list of practitioners ** such that ** those practitioners associated with the Customer Number >would have power of attorney (37 CFR 1.32(a)(4)(iii))<.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.
Applicant may use either the same or different customer number(s) for the correspondence address, the fee address and/or a list of practitioners. The customer number associated with the correspondence address is the Customer Number used to obtain access to the Patent Application Information Retrieval (PAIR) system at http://pair.uspto.gov. See MPEP § 1730 for additional information regarding PAIR.

* * *

The Office will also accept requests submitted electronically *via* a computer-readable diskette to **change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number**>.<
Such electronic requests must be submitted in the manner set forth in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the *Federal Register* at 61 FR 54622, 54623-24 (October 21, 1996), and in the *Official Gazette* at 1191 O. G. 187, 188-89 (October 29, 1996). >Note that such electronic requests are no longer accepted to change the power of attorney in a patent application or patent. See the notice entitled "Notice of Elimination of Batch Update Practice to Change Power of Attorney," published in the *Official Gazette* at 1272 O.G. 24 (July 1, 2003).<
**>With Customer Number practice, a< patentee **>is also< able to designate a "fee address" for the receipt of maintenance fee correspondence, and a different address for the receipt of all other correspondence. The designation of a "fee address" by reference to a Customer Number will not affect or be affected by the designation of a correspondence address by reference to another Customer Number, in that the Office will send maintenance fee correspondence to the address associated with the Customer Number designated as the "fee address" and will send all other correspondence to the address associated with the Customer Number designated as the correspondence address.
The association of a list of practitioners with a Customer Number will permit an applicant to appoint all of the practitioners associated with the Customer Number merely by reference to the Customer Number in the Power of Attorney (i.e., without individually listing the practitioners in the Power of Attorney). The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number >by submitting a corresponding "Request for Customer Number Data Change" (PTO/SB/124)< will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant >or assignee of the entire interest of the applicant< who appointed all of the practitioners associated with such Customer Number. This will avoid the necessity for the filing of additional papers in each patent application affected by a change in the practitioners of the law firm prosecuting the application. The appointment of practitioners associated with a Customer Number *>is< optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application>, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3)<.
The Customer Number practice does not affect the prohibition against, and does not amount to, an appointment of a law firm (rather than specified practitioners). The Office prohibits an appointment of a specified law firm because the Office cannot ascertain from its records whether

a particular practitioner submitting a paper to the Office is associated with the law firm specified in an appointment. The Office will permit an appointment of all of the practitioners associated with a specified Customer Number because the Office can ascertain from its records for the specified Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any othercorrespondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources. >Furthermore, Office computer systems do not allow for entry of both a power of attorney to a list of practitioners associated with a Customer Number and a list of practitioners.<

Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a *>Mail Stop< designation for correspondence related to a Customer Number ("**>Mail Stop EBC<"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this *>mail stop< designation. The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).

* * *

[4] The commentary at MPEP§603 provides in pertinent part:

601.03 Change of Correspondence Address [R-3]

37 CFR 1.33. Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

**>

(a)Correspondence address and daytime telephone number.

When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, *see* §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:<

(1) *Prior to filing of § 1.63 oath or declaration by any of the inventors.* 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 registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a § 1.63 oath or declaration has been filed by any of the inventors.* 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 1.33(a) provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. **>If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, over a typed correspondence address. Additionally, applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence

C.F.R.§1.181,[5] and alternatively sought relief under 37 C.F.R.§1.137(a) and (b)–but

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address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).<

The submission of a daytime telephone number of the party to whom correspondence is to be addressed is requested pursuant to 37 CFR 1.33(a). While business is to be conducted on the written record (37 CFR 1.2), a daytime telephone number would be useful in initiating contact that could later be reduced to * writing. Any party who could change the correspondence address could also change the telephone number. 37 CFR 1.33(a)(1) provides that the party filing the application and setting forth a correspondence address may later change the correspondence address provided that an executed oath or declaration under 37 CFR 1.63 by any of the inventors has not been filed. If a registered attorney or agent filed the application, any other registered practitioners named in the transmittal letter may change the correspondence address. A registered practitioner named in a letterhead would not be considered as being named in the transmittal letter for purposes of changing the correspondence address. A clear identification of the individual as a representative would be required. If an application is filed by a company to whom the invention has been assigned or to whom there is an obligation to assign the invention, a person who has the authority to act on behalf of the company may change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address pursuant to 37 CFR 1.33(a)(1). The filing of an executed oath or declaration that does not include a correspondence address does not affect any correspondence address previously established on filing of the application, or changed pursuant to 37 CFR 1.33(a)(1).

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 registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(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).

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see MPEP § 405).

Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. See MPEP § 403 for Customer Number Practice. In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. The original notice may either be sent to the Office of Enrollment and Discipline as notification to the Attor-ney's Roster of the change of address, or may be retained by applicant. See MPEP § 502.02.

Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4).

See MPEP § 711.03(c) for treatment of petitions to revive applications abandoned as a consequence of failure to timely receive an Office action addressed to the old correspondence address.

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.

The obligation (see 37 CFR *>11.11<) of a registered attorney or agent to notify the Attorney's Roster by letter of any change of his or her address for entry on the register is separate from the obligation to file a notice of change of address filed in individual applications. See MPEP § 402.

because Petitioner filed no reply to the outstanding Office action (Notice of Missing Parts (oath/declaration, replacement drawings, surcharge) and was not in the position to provide the statements/showings of unavoidable delay and unintentional delay, the latter petitions were dismissed on 17 August, 2006–and a copy of the Notice of Missing Parts was enclosed therewith;

- on 19 October, 2006, Petitioner filed the instant petitions, again seeking relief under 37 C.F.R.§1.181, and alternatively under 37 C.F.R.§1.137(b)–again, however, Petitioner cannot satisfy the timing requirement for relief under 37 C.F.R.§1.181, but Petitioner's petition under 37 C.F.R.§1.137(b) is accompanied by the fee, the reply and the statement of unintentional delay provided by the appropriate officer of Assignee.

As to Petitioner's protest that she could not know what to respond to the outstanding Office action, Petitioner as one registered to practice before the Office is well aware, once Petitioner prudently associates her Customer Number with the instant application, Petitioner can review online all of the papers in the application.

While Petitioner is reminded that from a technical aspect, the provisions of 37 C.F.R. §1.181 require that the regulation be invoked within two (2) months of the event complained of (i.e., the abandonment), and Petitioner waited ten (10) months after abandonment to seek relief under the regulation, the underlying cause of the abandonment was an un-Noticed change of address. Such a performance constitute neither error by the Office nor diligence by the applicant.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[6]

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[5] The record is clear that:

- the Notice in question was mailed on 29 September, 2004, to the address of record and the application went abandoned after midnight 29 November, 2004;
- however, the Applicant had moved and provided no advance Notice to the Office;
- Petitioner filed a Revocation/Power of Attorney on 22 February, 2005, and was not empowered in the instant matter until that time.

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

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

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).[7]

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[7] 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 reply now to be accepted on petition.[8]

Delays in responding properly raise the question whether delays are unavoidable.[9] 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).[10]

And the Petitioner must be diligent in attending to the matter.[11] 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.[12]))

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.[13] Further, Petitioner was referred in the original decision to the commentary at MPEP §711.03(c).[14]

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[8] 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.

[9] 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).

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

[11] 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.

[12] 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.

[13] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[14] The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of

And the regulation (37 C.F.R. §1.181[15]) requires that relief be sought within two (2) months of the act complained of.

Again Petitioner appears not to have satisfied and not to be able to satisfy the "showing" or "timeliness" requirements described above.

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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).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

[15] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by 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.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

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.

Petitioner appears to have satisfied the requirements of the regulation.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; however, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 1700 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[16]) 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

[16] 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

North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 05/21/2010

Applicant	: Kil-soo Jung	: DECISION ON REQUEST FOR
Patent Number	: 7653288	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,252	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 4, 2008

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

Patent No.: 7,064,324 B2
Application No.: 10/902,255
Inventor(s): Takashi Onishi
Issued: June 20, 2006
Title: **CHARGED PARTICLE BEAM APPARATUS**

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 matter, is hereby denied.

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

NOV 16 2004
PATENT & TRADEMARK OFFICE
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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:	
Douglas J. Hohlbein	Group Art Unit ~~3731~~ 1744
Serial No.: 10/902,257	Examiner: TBA Spisich, Mark
Filed: July 30, 2004	Attorney Docket No. 006427.00042
For: Oral Care Implement	Confirmation No. 1397

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)
AND SUPPORTING INFORMATION DISCLOSURE STATEMENT

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

Applicant hereby petitions the Commissioner to make the above-identified application special under 37 CFR § 1.102(d) and under the guidelines of MPEP § 708.02(VIII). Please charge the petition fee of $130.00 in accordance with 37 CFR §1.17(h) and any other fees that may be required for this Petition to Deposit Account No. 19-0733.

Pre-examination Search

A pre-examination search was conducted by a professional searcher in April 2004. The search was conducted in the following class and subclasses: 15, subclasses 22.1, 110, 111, 114, 143.1 159.1, 160, 167.1, 167.2, 186, 207.2, Digest 5 and Digest 6; D4/101,104, 105, 106, 107, 108, 109, 111, 112; D606/161. The search was conducted using the U.S. Patent and

11/17/2004 SSITHIB1 00000121 190733 10902257
01 FC:1460 130.00 DA

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUL 2 1 2005

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

6/29/06

In re Patent No. HOHLBEIN, DOUGLAS J.	:	
Issue Date: May 23, 2006	:	**DECISION GRANTING**
Appl No.: 10/902,257	:	**PETITION**
Filed: July 30, 2004	:	*37 CFR 1.324*
For: **ORAL CARE IMPLEMENT**	:	
	:	
	:	
	:	

This is a decision on the petition filed June 2, 2006 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.

Gladys J. Corcoran
Supervisory Patent Examiner
Art Unit 1744
Technology Center 1700

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

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: July 5, 2006
TO: Certificates of Correction Branch
FROM: Gladys JP Corcoran
SPE, Art Unit 1744
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,047,591 as specified on the attached Certificate.

Gladys JP Corcoran, SPE
Art Unit 1744

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,047,591
Patented: May 23, 2006

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:

Luca Casini, Milan, Italy
Douglas J. Hohlbein, Pennington, NJ (US)
Jacob Pringiers, Milan, Italy
Michael Charles Rooney, Millburn, NJ (US)

Gladys JP Corcoran
Supervisory Patent Examiner
Art Unit 1744

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

Mitchell A. Smolow
720 Hampton Road
Shavertown, PA 18708

COPY MAILED

AUG 15 2008

In re Application of	:	
Ernest Wollin	:	
Application No. 10/902,263	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 024829-0124	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by applicant's attorney on his behalf. Accordingly, the above-identified application has been accorded "special" status.

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

The application is being forwarded to the Technology Center Art Unit 3726 for action on the merits commensurate with this decision.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Suite 500
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Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Ernest Wollin :
Application No. 10/902,263 : CORRECTED DECISION ON
Filed: July 30, 2004 : PETITION TO MAKE SPECIAL
UNDER 37 CFR 1.102(c)(1)

Attorney Docket No. 024829-0124

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by applicant's attorney on his behalf. Accordingly, the above-identified application has been accorded "special" status.

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

The application is being forwarded to the Technology Center Art Unit 3726 for action on the merits commensurate with this decision.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of

KUNDALGURKI, Srivatsa et al.
Application No. 10/902,268
Filed: July 30, 2004
Attorney Docket No. **543822008600**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah Gladstein 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: **SRIVTSA KUNDALGURKI**
THEODOR FONTANE STRASSE 5 #6
01109 DRESDEN, GERMANY

cc: **ESCHWEILER & ASSOCIATES, LLC**
NATIONAL CITY BANK BUILDING
629 EUCLID AVE., SUITE 1000
CLEVELAND, OH 44114

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Paper No.

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

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JUL 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	
Application No. 10/902,281	:	ON APPLICATION FOR
Filed: July 29, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 032026-0788	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed March 25, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred eighty-four (484) days, not two hundred fifty-eight (258) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

[1] This calculation takes into consideration that a request for continued examination (RCE) was first filed in this application on March 11, 2008. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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

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

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

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Y. Austin Chang	: DECISION ON REQUEST FOR
Patent Number	: 7579042	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,281	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **514** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RESTON VA 20195

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Gorman, Sean P.	:	
Application No. 10/902,283	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 312243-P0003	:	

This is a decision on the petition, filed June 19, 2008, 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 28, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 23, 2008 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2616 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

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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
10/902,283	07/30/2004	Sean P. Gorman	312243-P0003

CONFIRMATION NO. 1714

47604
DLA PIPER US LLP
P. O. BOX 9271
RESTON, VA 20195

NONPUBLICATION RESCISSION LETTER

OC000000030977308

Date Mailed: 07/15/2008

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 10/23/2008.

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".

/lswalsh/

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

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Chandra Mouli	: DECISION ON REQUEST FOR
Patent Number	: 7598134	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
McConnell, et al. :
Application No. 10/902,323 : DECISION ON PETITION
Filed: July 29, 2004 :
Docket No.: 2567 :

This is a decision on the petition under 37 CFR 1.181, filed April 26, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed May 24, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed April 4, 2007.

Petitioners assert non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the correspondence address of record. This presumption may be overcome by a showing that the Office communication 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.

A review of the record reveals that, for reasons unknown to the undersigned, the non-final Office action mailed May 24, 2006 was

returned to the Office. There is no indication in the record that the Office attempted to re-mail the Office communication to applicants in accordance with MPEP 707.13.

In view of the arguments and supporting documentation presented, the obvious conclusion that the non-final Office was not received is reached.

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

The application file is being forwarded to Technology Center 2600 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

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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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
McConnell et al.	:	ON APPLICATION FOR
Application No. 10/902,323	:	PATENT TERM ADJUSTMENT
Filed: July 29, 2004	:	
Atty Docket No. 2567	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION filed January 14, 2008, which is properly treated as an application for patent term adjustment under 37 CFR § 1.705(b). Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected and that a period of reduction of four hundred thirty-five (435) days for applicant delay be removed.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred seventy-three (673) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 13, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 0 days. Applicants submit that the Office should not have determined an applicant delay of 435 days for failing to respond to the Office action mailed May 24, 2006.

Applicants argue that, as evidenced by the decision granting a petition to withdraw the holding of abandonment, the delay in responding to the Office action was the fault of the Office.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 0 days is incorrect. The Office mailed an Office action under section 151 on May 24, 2006, fourteen months and 237 days after the date of filing of the application. However, the Office action was returned to the Office by the postal service. The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants.

The Office action was re-mailed on July 9, 2007. Accordingly, the Office's delay should be calculated using the July 9, 2007 date. As such, the period of adjustment for Office delay in mailing a first Office action under 35 U.S.C. 132 later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) is 673 days, not 237 days.

Furthermore, applicants are correct that entry of the period of reduction of 435 days is not warranted. Applicants' response filed November 2, 2007 was filed within four months of the Office action as re-mailed on July 9, 2007. There was no failure to engage within the meaning of 37 CFR 1.704(b), and thus, the period of reduction of 435 days is not warranted.

It is further noted that a petition to withdraw the holding of abandonment was filed within two months of the mailing of the notice of abandonment. As such, there was no applicant delay within the meaning of 37 CFR 1.703(c)(4).

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is six hundred seventy-three (673) days.

Pursuant to the general authorization submitted on filing of this application, the $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 21-0765, as authorized. No additional fee is required.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded 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 regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Monday
Date: 6/23/2008

PALM INTRANET

Time: 15:33:34

PTA Calculations for Application: 10/902323			
Application Filing Date:	07/29/2004	PTO Delay (PTO):	237
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	435
Post-Issue Petitions:	0	Total PTA (days):	673
PTO Delay Adjustment:	871		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		237	
63	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	435		
62	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	673		
55	12/13/2007	MAIL NOTICE OF ALLOWANCE			
54	12/13/2007	MAIL EXAMINER'S AMENDMENT			
53	12/12/2007	ISSUE REVISION COMPLETED			
52	12/12/2007	DOCUMENT VERIFICATION			
51	12/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	12/10/2007	EXAMINER'S AMENDMENT COMMUNICATION			
49	12/10/2007	NOTICE OF ALLOWABILITY			
48	11/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	11/02/2007	REFERENCE CAPTURE ON IDS			
46	11/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	44
45	11/27/2007	DATE FORWARDED TO EXAMINER			
44	11/02/2007	RESPONSE AFTER NON-FINAL ACTION		435	32
43	11/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	08/03/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
41	07/09/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
40	06/21/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
39	06/21/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
		MAIL-PETITION TO REVIVE APPLICATION -			

38	06/21/2007	GRANTED			
37	04/26/2007	PETITION ENTERED			
36	04/04/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
35	04/02/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
34	03/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33.7	03/01/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
33	03/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	05/24/2006	MAIL NON-FINAL REJECTION	237		-1
31	05/21/2006	NON-FINAL REJECTION			
30	03/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	02/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	08/12/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	03/03/2006	REFERENCE CAPTURE ON IDS			
22.7	03/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	02/02/2006	REFERENCE CAPTURE ON IDS			
20.7	02/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/26/2005	MISCELLANEOUS INCOMING LETTER			
17	08/12/2005	REFERENCE CAPTURE ON IDS			
16.7	08/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

15	08/02/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
14	06/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	03/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	09/24/2004	APPLICATION RETURN FROM OIPE			
10	09/24/2004	APPLICATION IS NOW COMPLETE			
9	07/29/2004	PGPUBS NONPUB REQUEST			
8	09/24/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	09/24/2004	APPLICATION RETURN TO OIPE			
6	09/23/2004	APPLICATION DISPATCHED FROM OIPE			
5	09/24/2004	APPLICATION IS NOW COMPLETE			
4	09/09/2004	CLEARED BY OIPE CSR			
3	09/09/2004	CASE CLASSIFIED BY OIPE			
2	08/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/29/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SUITE 1400
SPOKANE, WA 99201

MAILED

JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Glenn F. Evans, et al.	:	
Application No. 10/902,325	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MSI-2087US	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed July 27, 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 June 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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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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SUITE 1400
SPOKANE WA 99201

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Glenn F. Evans, et al.	:	
Application No. 10/902,325	:	DECISION GRANTING PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-2087US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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HENRY M. STANLEY
165 EAST HILTON DRIVE
BOULDER CREEK, CA 95006

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
D. MacIntyre, J. MacIntyre, and Kim	: DECISION REFUSING STATUS
Application No. 10/902,354	: UNDER 37 CFR 1.47(a)
Filed: July 28, 2004	:
Attorney Docket No. A116a	:
For: APPARATUS AND METHOD FOR MAINTAINING	:
UNIFORM CONTRAST IN LIQUID CRYSTAL DISPLAYS	:

This is a decision on the petition under 37 CFR 1.47(a) filed July 28, 2004.

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

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

The above-identified application was filed on July 28, 2004, without a properly executed declaration. The petition under 37 CFR 1.47(a) was filed with the original application papers on July 28, 2004, alleging that inventor Kim could not be located.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (1) as set forth above.

As to item (1), the statement of the alleged unavailability of the non-signing inventor is not sufficient because it is conclusive in nature and does not provide the facts necessary for the Office to determine whether a diligent effort has been made to locate the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent, part that:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, 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.

Any renewed petition under 37 CFR 1.47(a) filed must be accompanied by a statement establishing that a diligent effort was made to locate inventor Kim.

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

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

By FAX: (571)273-0025
Attn: Office of Petitions

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of
D. MacIntyre, J. MacIntyre, and Kim
Application No.: 10/902,354
Filed: July 28, 2004
Attorney Docket No: A116a
For: APPARATUS AND METHOD FOR MAINTAINING UNIFORM CONTRAST IN LIQUID CRYSTAL DISPLAYS

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 10, 2004, (certificate of mailing dated December 7, 2004.

The renewed petition is **GRANTED**.

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

The above-cited application was filed on July 28, 2004, without a properly executed declaration. A petition under 37 CFR 1.47(a) was filed with the original application papers on July 28, 2004, alleging that inventor Kim could not be located. The petition was dismissed by a decision mailed October 8, 2004; the instant renewed petition was then filed on December 10, 2004.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Yong Beom Kim
808 Grovehurst Drive
Alpharetta, GA 30022

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
D. MacIntyre, J. MacIntyre, and Kim :
Application No. 10/902,354 : LETTER
Filed: July 28, 2004 :
Attorney Docket No.A116a :
For: APPARATUS AND METHODS FOR MAINTAINING UNIFORM CONTRAST IN LIQUID CRYSTAL DISPLAYS

Dear Mr. Kim:

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

HENRY M. STANLEY
165 EAST HILTON DRIVE
BOULDER CREEK, CA 95006

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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
10/902,356	07/29/2004	2816	942	DEE-PT189	16	16	5

CONFIRMATION NO. 9566

CORRECTED FILING RECEIPT

OC000000014810014

3624
VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 12/22/2004

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

Applicant(s)

Jianping Ying, Taoyuan Shien, TAIWAN;
Teng Liu, Taoyuan Shien, TAIWAN;
Xingkuan Guo, Taoyuan Shien, TAIWAN;
Jianhong Zeng, Taoyuan Shien, TAIWAN;
Yue Fu, Taoyuan Shien, TAIWAN;

Assignment For Published Patent Application

Delta Electronics Inc., Taoyuan Hsien, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number **3624**.

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 92120921 07/30/2003

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 US10/902,356

Projected Publication Date: 02/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Lossless clamping circuit of power converter having relatively higher efficiency

Preliminary Class

327

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/902,357	07/29/2004	3662	878	I-2-0742.1US	4	26	2

CONFIRMATION NO. 9565

CORRECTED FILING RECEIPT

OC000000015708969

24374
VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 04/11/2005

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

Applicant(s)

Prabhakar R. Chitrapu, Blue Bell, PA;

Assignment For Published Patent Application

InterDigital Technology Corporation, Wilmington, DE

Power of Attorney: The patent practitioners associated with Customer Number **24374**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/573,539 05/21/2004

Foreign Applications

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 US10/902,357

Projected Publication Date: 11/24/2005

Non-Publication Request: No

Early Publication Request: No

Title

Smart antenna for generating nested beams

Preliminary Class

342

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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CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Hideomi Suzawa, et al. :
Application No.: 10/902,358 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No.: 0553-194.01 :

This is a decision on the petition, filed February 6, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/902,370	07/29/2004	2665	900	I-2-0499.1US	4	15	3

CONFIRMATION NO. 1913

CORRECTED FILING RECEIPT

OC000000014976500

24374
VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Date Mailed: 01/18/2005

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

Applicant(s)

Marian Rudolf, Montreal, CANADA;
Stephen G. Dick, Nesconset, NY;
Liliana Czapla, Jackson Heights, NY;

Assignment For Published Patent Application

InterDigital Technology Corporation, Wilmington, DE

Power of Attorney: The patent practitioners associated with Customer Number **24374**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/518,147 11/07/2003

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 US10/902,370

Projected Publication Date: 05/12/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for channel assignments in wireless systems

Preliminary Class

370

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: V. Edward Gold JR.	: DECISION ON REQUEST FOR
Patent Number	: 7650016	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,372	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOMBLE CARLYLE SANDRIDGE &
RICE, PLLC
ATTN: PATENT DOCKETING
P.O. BOX 7037
ATLANTA GA 30357-0037

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JAN 27 2010

In re Application of	:	
Ginette Serraro	:	
Application No. 10/902,374	:	ON APPLICATION FOR
Filed: July 30, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.A256 1130.1	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed October 22, 2009. Applicants submits that the patent term adjustment to be indicated on the patent is six hundred and seven (607) days, not three hundred seventy-five (375) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

It is noted 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 –

---

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

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on March 18, 2008.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc:
Lawrence J. Carroll
Connolly Bove Lodge & Hutz LLP
1875 Eye Street, NW
Suite 1100
Washington, DC 20006

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HUNTON & WILLIAMS LLP
SUITE 1200
1900 K STREET, N.W.
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Patent No. 7,442,504
Issued: October 28, 2008
Application No. 10/902,385
Filed: July 30, 2004
Attorney Docket No. 58764.000046

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on December 24, 2008, requesting that the patent term adjustment be corrected from 394 to 804 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 adjusted by eight hundred four (804) 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 **eight hundred four (804)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,442,504 B2

DATED : October 28, 2008

INVENTOR(S) : Linda Trolinder

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 (394) days

Delete the phrase "by 394 days" and insert – by 804 days--

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Armstrong Teasdale LLP (IGT - 26668)
Robert B. Reeser, III
One Metropolitan Square, Suite 2600
St. Louis MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
Richard Soltys et al.	:	
Application No. 10/902,436	:	DECISION ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. AP00354-002 (26668-344)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 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, September 30, 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 December 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Araz Yacoubian	:	
Application No. 10/902,437	:	DECISION ON PETITION
Filed: July 28, 2004	:	
Attorney Docket No. 1038.P001 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 26, 2007. Accordingly, the date of abandonment of this application is July 27, 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 $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

Docket Number (Optional) 1038.P001 US

First named inventor: Araz Yacoubian

Application No.: 10/902,437 Art Unit: 2886

Filed: July 28, 2004 Examiner: Detschel, Marissa

Title: ELECTRO-OPTIC SENSOR

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 _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1,020.00 07/08/2008 VBUI11 00000074 10902437
☐ has been paid previously on _____.
☑ is enclosed herewith. 01 FC:2453 770.00 OP

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.

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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	July 7, 2008 Date
Ken J. Koestner Typed or printed name	33,004 Registration Number, if applicable
2192 Martin St., Suite 150 Address	(949) 251-0260 Telephone Number
Irvine, CA 92612 Address	

Enclosures:
- ☑ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☑ Other: Part B - Fee(s) Transmittal

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

I hereby certify that this correspondence is being:

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

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

July 7, 2008 Date	Signature
	Joy C. Ngo Typed or printed name of person signing certificate

PAGE 2/6 * RCVD AT 7/7/2008 5:57:56 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/22 * DNIS:2738300 * CSID:9492510260 * DURATION (mm-ss):02-54

Attorney/Agent Information for 10/902437

Customer # 32794

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
KOESTNER, KEN	33004 (Attorney)	(949)251-0250
BERTANI, MARY	42321 (Attorney)	(949)251-0250

Appln Info | Contents | Petition Info | **Atty/Agent Info** | Continuity/Reexam | Foreign Data

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RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10902437 Total Records Found: 9

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/08/2008	00000095	1	2453	$770.00	07/07/2008	CC
07/08/2008	00000005	1	2501	$720.00	07/07/2008	CC
07/08/2008	00000006	1	1504	$300.00	07/07/2008	CC
12/06/2006	00000035	1	2201	$100.00	12/05/2006	CC
12/06/2006	00000036	1	2202	$225.00	12/05/2006	CC
10/15/2004	00000262		8021	$40.00	10/13/2004	DA 502240
10/14/2004	00000178	1	2001	$395.00	10/13/2004	DA 502240
10/14/2004	00000179	1	2051	$65.00	10/13/2004	DA 502240
10/14/2004	00000180	1	2202	$171.00	10/13/2004	DA 502240

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of

Alan C. Barber
Application No. 10/902,454
Filed: July 29, 2004
Attorney Docket No. 9349-306

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 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, **termination of client representation for this matter due to transfer to ownership**, 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.

Terri Williams
for
David Bucci
Petitions Examiner
Office of Petitions

cc: **David S. Bradin**
Womble Carlyle Sandridge & Rice PLLC
Post Office Box 13069
Research Triangle Park, NC 27709

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Steven Jaffe et al	:	
Application No. 10/902,465	:	DECISION DISMISSING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.664000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 20, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not received within sufficient time to effect the withdrawal of this application from issue prior to the scheduled issue date of December 26, 2006. Therefore, as the case has now issued, the petition to withdraw from issue cannot now be granted. *See* MPEP § 1308.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added.)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 RCE filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Mark Oskotsky
151 Fenimore Road, #11B
Mamaroneck, New York 10543

In re Application of
Smirnov and Oskotsky
Application No.: 10/902,469
Filed: July 30, 2004
Attorney Docket No1857.2260000
For: OFF_AXIS CATADIOPTRIC PROJECTION OPTICAL SYSTEM FOR LITHOGRAPHY

: LETTER

Dear Mr. Oskotsky:

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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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Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, OH 435551

Date Mailed : November 8, 2007
Serial No. :10/902478
Patent No. :7,261,186 B2
Patent Issued :August 28, 2007
Inventor(s) : Romeo Deplazes, et al.
Title : ELEVATOR WITH TRANSVERSE FLUX DRIVE

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.

The alleged error in the omission of the priority data, resulted from applicant's failure to fully comply with 35 U.S.C. 119, in that the certified copy of the application was not filed in the instant application or any other related patent.

Therefore, the right to priority was lost, and no correction is in order here under 35 U.S.C. 254 or 255 (Rules 1.322 or 1.323), unless a petition is granted.

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

Magdalene Talley
Decisions and Certificate
Of Correction Branch
(703) 308-9390 ext. 116
FAX 571-270-9942

/mt

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Allen R. Samuels, et al.	:	
Application No. 10/902,491	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 23447-09315	:	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 18, 2006.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with customer No. 00758.

All attorneys/agents associated with the Customer Number 00758 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

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

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: ALLEN R. SAMUELS
5971 FOLLGNO WAY
SAN JOSE, CA 95138

cc: CHOATE, HALL & STEWART
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/902,491	07/28/2004	Allen R. Samuels	23447-09315

CONFIRMATION NO. 1119

OC000000021940602

OC000000021940602

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 01/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 05/10/2010

Applicant	: Allen R. Samuels	: DECISION ON REQUEST FOR
Patent Number	: 7630305	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1058** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JAN 18 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Allen R. Samuels	:	
Application No. 10/902,493	:	DECISION ON PETITION
Filed: July 28, 2004	:	TO WITHDRAW
Attorney Docket No. 23447-09314	:	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 18, 2006.

The request is **APPROVED**.

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

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with Customer No. 758.

All attorneys/agents associated with the Customer No. 758 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Allen R. Samuels**
5971 Foligno Way
San Jose, CA 95138

cc: **Choate, Hall & Stewart**
Two International Place
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/902,493	07/28/2004	Allen R. Samuels	23447-09314

CONFIRMATION NO. 1129

OC000000022021739

OC000000022021739

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 01/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

- 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

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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/29/2010

Applicant	: Allen R. Samuels	: DECISION ON REQUEST FOR
Patent Number	: 7616638	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Colin Jon Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7583853	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
SAMUELS, Allen R. et al.
Application No. 10/902,509
Filed: July 28, 2004
Attorney Docket No. **23447-09313**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2006.

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

A review of the file record indicates that the power of attorney to FENWICK & WEST LLP has been revoked by the assignee of the patent application on February 15, 2007 and April 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHOATE, HALL & STEWART**
CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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EDWARD D. MANZO
COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of Hideomi Suzawa et al Application No. 10/902,551 Filed: July 29, 2004 Attorney Docket No. 0553-0194.02	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 31, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Sept10\902551.wpd

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

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EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER,LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Hideomi Suzawa et al	:	
Application No. 10/902,551	:	DECISION GRANTING PETITION
Filed: July 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0194.02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 26, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and the request for notice of allowance of pending claims 120-151.

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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225 FRANKLIN ST
BOSTON, MA 02110

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APR 0 6 2005
OFFICE OF PETITIONS

In re Application of :
Vincent P. Stanton, Jr. :
Application No. 10/902,585 :
Filed: July 29, 2004 : ON PETITION
Attorney Docket Number: :
11926-013005 :

This is a decision on the Petition, filed December 30, 2004, requesting the above-identified application be accorded a filing date of July 29, 2004, including pages 284, 412, 437, 440, 444 and 446 of the specification. The petition is properly treated under 37 CFR 1.53.

The petition is **granted**.

The application was filed on July 29, 2004. However, on October 28, 2004, the Office of Initial Patent Examination mailed a Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"). The Notice informed Applicant, *inter alia*, that the application had been accorded a filing date; however, pages 284, 412, 437, 440, 444 and 446 of the specification appeared to have been omitted from the application.

In response, Applicant files the instant petition wherein Applicant avers that pages 284, 412, 437, 440, 444 and 446 of the specification were included among 496 pages of Specification filed with the application on July 29, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, 496 pages of Specification filed on July 29, 2004.

A review of the return receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of 496 pages of Specification by this Office on July 29, 2004. Applicant has

also re-submitted 496 pages of specification with the instant petition.

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

Accordingly, the petition is granted. The copy of pages 284, 412, 437, 440, 444 and 446 of the specification, supplied with the instant petition on December 30, 2004, will be used for examination purposes.

A refund of the petition fee[1] has been credited to deposit account 06-1050 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of July 29, 2004, and an indication that pages 284, 412, 437, 440, 444 and 446 of the specification were included among 496 pages of Specification that were present on filing on July 29, 2004.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] Applicant is advised that many Office fees, including petition fees, have changed effective December 8, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-30-08

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/402642 Patent No.: 7326619

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Carrie Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: _____

CHARLES D. GARBER
~~SUPERVISORY PATENT EXAMINER~~
SPE

2812
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/902,648	07/29/2004	1722	770	LICHTINGER-7/4	5	20	2

CONFIRMATION NO. 1560

CORRECTED FILING RECEIPT

OC000000014317300

020151
HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

Date Mailed: 11/08/2004

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

Applicant(s)

Peter Lichtinger, Furstenfeldbruck, GERMANY;

Assignment For Published Patent Application

Krauss-Maffei Kunststofftechnik GmbH, Munchen, GERMANY

Power of Attorney:

Henry Feiereisen–31084
Ursula Day–47296

Domestic Priority data as claimed by applicant

This application is a DIV of 09/829,209 04/06/2001
which is a CON of PCT/EP00/07562 08/04/2000

Foreign Applications

GERMANY 199 37 200.4 08/06/1999

If Required, Foreign Filing License Granted: 09/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/902,648

Projected Publication Date: 01/06/2005

Non-Publication Request: No

Early Publication Request: No

Title

Rotary device for a horizontal injection molding machine

Preliminary Class

425

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

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of

SWETINA, Joerg
Application No. 10/902,688
Filed: July 30, 2004
Attorney Docket No. **449122076200**

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated 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.

A reply to the Notice of Appeal filed June 15, 2007 is required from the applicant.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JOERG SWETINA**
STEIGENG. 2
A-WIEN, 1060
AUSTRIA

cc: **BELL, BOYD & LLOYD LLC**
ATTN: KEVIN R. SPIVAK
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602-4207

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
10/902,688	07/30/2004	Joerg Swetina	449122076200

CONFIRMATION NO. 9730

OC000000025164781

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/19/2007.

- 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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MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

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NOV 16 2009

OFFICE OF PETITIONS

In re Application of :
Meyer Fishbein :
Application No. 10/902,692 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. PUS-P001-032 :

This is a decision on the petition, filed November 13, 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) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Mira Precision Surgical Instruments, Inc. and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Mira Precision Surgical Instruments, Inc.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

A review of Office database assignment records reflects that an assignment to Mira Precision Surgical Instruments, Inc. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Mira Precision Surgical Instruments, Inc was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Mira Precision Surgical Instruments, Inc., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/Irvin Dingle/
Irvin Dingle
Petition Examiner
Office of Petitions

In the United States Patent and Trademark Office

Serial No. 10/902,692	§	Filing Date: July 29, 2004
	§	
Title: MINIMALLY INVASIVE	§	
COLLAPSIBLE SURGICAL REAMER	§	Examiner: YANG, Andrew
	§	
	§	GA No.: 3733
Applicant: Meyer FISHBEIN	§	
	§	
Atty. Docket No: PUS-P001-032	§	Conf. No.: 9705

CERTIFICATE OF TRANSMISSION UNDER 37 CFR §1.8. I hereby certify that this correspondence is being facsimile transmitted to the US Patent and Trademark Office

on _____.

Typed/printed name of person signing this certificate: _____

Signature: _____

Via efs webfile or facsimile to: 001 571 273 8300

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

PETITION UNDER § 1.313 TO WITHDRAW APPLICATION FROM ISSUE --CORRECTION TO ISSUE FEE TRANSMITTAL

Dear Sir,

The Undersigned noticed an error in the Issue Fee Transmittal filed on November 5, 2009. The assignee in this case is NOT Greatbatch Medical S.A of Orvin, Switzerland, as indicated, but rather, MIRA PRECISION SURGICAL INSTRUMENTS, INC. a Delaware corporation, as is officially recorded under Reel/Frame 016978/0892.

11/17/2009 LDIEP1 00000010 502621 10902692
01 FC:1464 130.00 DA

A corrected Issue Fee Transmittal is attached indicating the true assignee.

Applicant petitions the Commissioner to withdraw the present application from issue in order to substitute the attached corrected Issue Fee Transmittal for the erroneous one previously filed, thereby ensuring that the correct assignee is noted in the published and granted patent document. The Commissioner is authorized to debit the deposit account no. 502621 of Moetteli & Associates SàRL for the fee due therefore under §1.17(h).

Respectfully submitted,

/s/john moetteli/

John Moetteli
U.S. Reg. No. 35,289

Date: November 12, 2007

Enclosed: - corrected Issue Fee Transmittal

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OFFICE OF PETITIONS

MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST. GALLEN CH-90-00 CH SWITZERLAND

In re Patent No. 7,632,276	:	
Issue Date: December 15, 2009	:	
Application No. 10/902,692	:	ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. PUS-P001-032	:	

This is a decision on the petition filed December 9, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF ADAM H. JACOBS
1904 FARNAM STREET, SUITE 726
OMAHA NE 68102

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
SLACK, et al.	:	
Application No. 10/902,716	:	DECISION ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 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 March 23, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the timely 2-month extension of time filed August 27, 2007, the date of abandonment of this application is August 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $405; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3732 for processing of the RCE in accordance with 37 CFR 1.114 and for appropriate action by the Examiner in the normal course of business.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUN 18 2009

OFFICE OF PETITIONS

BASF CATALYSTS LLC
100 CAMPUS DRIVE
FLORHAM PARK, NJ 07932

In re Application of Speronello et al. :
Application No. 10/902,735 : DECISION ON PETITION
Filing Date: July 29, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4986 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet.

The petition is **GRANTED.**

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

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other

requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The application is being forwarded to Technology Center Art Unit 1796 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/902,735	07/29/2004	1796	1024	4986	8	1

CONFIRMATION NO. 3248

CORRECTED FILING RECEIPT

48226
BASF CATALYSTS LLC
100 CAMPUS DRIVE
FLORHAM PARK, NJ 07932

OC000000036457659

Date Mailed: 06/15/2009

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)

Barry K. Speronello, Montgomery Township, NJ;
Linda Hratko, Colonia, NJ;
Michael S. Cochran, Morris Plains, NJ;

Power of Attorney:
Richard Negin--28649
Raymond Keller--28960
Gus Hampilos--31206
Melanie Brown--31592
Russell Lindenfeldar--39750

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/492,431 08/04/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/902,735**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Chlorine dioxide releasing composite article

Preliminary Class

252

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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L. HOWARD CHEN, ESQ.
KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
SUITE 1700
55 SECOND STREET
SAN FRANCISCO CA 94105

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SEP 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
LIANG, Liang	:	
Application No. 10/902,736	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. **43753-P001US**	:	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 07, 2007 and re-submitted on August 14, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JAMES WU**
ORION LAW GROUP, PLC
84 WEST SANTA CLARA ST.
SUITE 820
SAN JOSE, CA 95113

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ROBERT H ROCHE
CTRL SYSTEMS INC
SUITE H
1004 LITTLESTOWN PIKE
WESTMINSTER MD 21157-3026

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JUN 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Vadym Buyalsky	:	
Application No. 10/902,741	:	ON PETITION
Filed: July 29, 2004	:	
Title: Method of Attract-To-Merge Control of Liquid Jet-Stream Flows (AMS Method)	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed May 18, 2009.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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. The instant petition lacks item (2).

Petitioner has not submitted the petition fee in full. The fee for a petition to revive under 37 CFR 1.137(a) is $270. Petitioner submitted $255. The petition fee is required for the filing, and not merely the grant, of a petition.[1] As such, the petition will not be considered on the merits until such time as petitioner submits the petition fee in full.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II)(B).

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ROBERT H ROCHE
CTRL SYSTEMS INC
SUITE H
1004 LITTLESTOWN PIKE
WESTMINSTER MD 21157-3026

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of Vadym Buyalsky Application No. 10/902,741 Filed: July 29, 2004 Title: Method of Attract-To-Merge Control of Liquid Jet-Stream Flows (AMS Method)	: : : : :	ON PETITION

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed June 3, 2009.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 17, 2007. Applicant filed an Amendment on December 11, 2007. However, by Advisory Action mailed December 31, 2007, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance.

Applicant then filed a Notice of Appeal on January 14, 2008, together with a Pre-Appeal Brief Request for Review. The fee at

that time for filing a Notice of Appeal was $255. However, applicant submitted a check in the amount of $250. In addition, applicant's check bounced. On March 24, 2008, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review, stating that the Notice of Appeal was improper because it lacked sufficient funds. On April 16, 2008, applicant, apparently not realizing that his $250 check had bounced, submitted an additional $5 for the Notice of Appeal, together with a three month extension of time ($525) in order to make the Notice of Appeal timely. However, at this point, the Office only had $5 for the Notice of Appeal (since the $250 check submitted on January 14, 2008 had bounced). Accordingly, the application became abandoned by operation of law on April 18, 2008. The Office mailed a Notice of Abandonment on December 22, 2008.

Applicant filed an RCE, Notice of Appeal, and Pre-Appeal Brief Request for Review on January 21, 2009, all of which were not entered as the application was already abandoned.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

constitute "unavoidable" delay.[2]

The petition has been considered. However, it is determined that applicant has not shown that the entire period of delay was unavoidable. Applicant has not shown was he was unavoidably prevented from submitting the fee for the Notice of Appeal in full.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the 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 unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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ROBERT H ROCHE
CTRL SYSTEMS INC
SUITE H
1004 LITTLESTOWN PIKE
WESTMINSTER MD 21157-3026

COPY MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of Vadym Buyalsky Application No. 10/902,741 Filed: July 29, 2004 Title: Method of Attract-To-Merge Control of Liquid Jet-Stream Flows (AMS Method)	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 17, 2007. Applicant filed an Amendment on December 11, 2007. However, by Advisory Action mailed December 31, 2007, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance.

Applicant then filed a Notice of Appeal on January 14, 2008, together with a Pre-Appeal Brief Request for Review. The fee at that time for filing a Notice of Appeal was $255. However, applicant submitted a check in the amount of $250. In addition, applicant's check bounced. On March 24, 2008, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review, stating that the Notice of Appeal was improper because it lacked sufficient funds. On April 16, 2008, applicant, apparently not realizing that his $250 check had bounced, submitted an

additional $5 for the Notice of Appeal, together with a three month extension of time ($525) in order to make the Notice of Appeal timely. However, at this point, the Office only had $5 for the Notice of Appeal (since the $250 check submitted on January 14, 2008 had bounced). Accordingly, the application became abandoned by operation of law on April 18, 2008. The Office mailed a Notice of Abandonment on December 22, 2008.

Applicant filed an RCE, Notice of Appeal, and Pre-Appeal Brief Request for Review on January 21, 2009, all of which were not entered as the application was already abandoned.

Applicant then filed a petition to revive under 37 CFR 1.137(a) on June 3, 2009, which was dismissed in a decision mailed on June 9, 2009. The petition was dismissed because petitioner did not make a satisfactory showing of unavoidable delay.

With the instant petition, petitioner paid the petition fee, and made the proper statement of unintentional delay. The required reply (RCE, Notice of Appeal, Pre-Appeal Brief Request for Review) was previously filed on January 21, 2009.

The application is being forwarded to Group Art Unit 3753 for consideration of the RCE, Notice of Appeal, and Pre-Appeal Brief Request for Review, all filed on January 21, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ROBERT H ROCHE
CTRL SYSTEMS INC
SUITE H
1004 LITTLESTOWN PIKE
WESTMINSTER MD 21157-3026

In re Application of	:	
Vadym Buyalsky	:	CORRECTED DECISION
Application No. 10/902,741	:	ON PETITION
Filed: July 29, 2004	:	
Title: Method of Attract-To-Merge Control of Liquid Jet-Stream Flows (AMS Method)	:	

This is a corrected decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed October 17, 2007. Applicant filed an Amendment on December 11, 2007. However, by Advisory Action mailed December 31, 2007, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance.

Applicant then filed a Notice of Appeal on January 14, 2008, together with a Pre-Appeal Brief Request for Review. The fee at that time for filing a Notice of Appeal was $255. However, applicant submitted a check in the amount of $250. In addition, applicant's check bounced. On March 24, 2008, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review, stating that the Notice of Appeal was improper because it lacked sufficient funds. On April 16, 2008, applicant, apparently not realizing that his $250 check had bounced, submitted an

additional $5 for the Notice of Appeal, together with a three month extension of time ($525) in order to make the Notice of Appeal timely. However, at this point, the Office only had $5 for the Notice of Appeal (since the $250 check submitted on January 14, 2008 had bounced). Accordingly, the application became abandoned by operation of law on April 18, 2008. The Office mailed a Notice of Abandonment on December 22, 2008.

Applicant filed an RCE, Notice of Appeal, and Pre-Appeal Brief Request for Review on January 21, 2009, all of which were not entered as the application was already abandoned.

Applicant then filed a petition to revive under 37 CFR 1.137(a) on June 3, 2009, which was dismissed in a decision mailed on June 9, 2009. The petition was dismissed because petitioner did not make a satisfactory showing of unavoidable delay.

With the instant petition, petitioner paid the petition fee, and made the proper statement of unintentional delay. The required reply (RCE, Notice of Appeal, Pre-Appeal Brief Request for Review) was previously filed on January 21, 2009.

The previous decision indicated that the application was being forwarded to Group Art Unit 3753 for consideration of the RCE, Notice of Appeal, and Pre-Appeal Brief Request for Review, all filed on January 21, 2009.

However, applicant must notify the Office whether he wishes to have the RCE entered, or the Notice of Appeal / Pre-Appeal Brief Request for Review.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BAKER BOTTS LLP
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

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OFFICE OF PETITIONS

In re Application of	:
Curtis Kirker et al	:
Application No. 10/902,771	: DECISION GRANTING PETITION
Filed: July 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 066639.0131	:

This is a decision on the petition, filed March 5, 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 January 30, 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 1723 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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MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET, SPEAR STREET TOWER
SUITE 2800
SAN FRANCISCO, CA 94105

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Kenneth N. Raymond, et al.
Application No. 10/902,772
Filed: July 30, 2004
Attorney Docket No. 061818-02-5007US01

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 December 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

DEC 16 2005

TECHNOLOGY CENTER 2100

In re Application of:
AKAGAWA et al
Application No. 10/902,800
Filed: August 02, 2004
For: A COMPUTER SYSTEM INCLUDING FILE SHARING DEVICE AND A MIGRATION METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 14, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of July 14, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 25 2005

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:	
Nicolas F. Ladisa	:	DECISION PETITION
Serial No.: 10/902,809	:	
Filed: August 2, 2004	:	
For: Balls With Gripping Handles	:	

This is in response to applicants' petition filed October 7, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on applicant's age and health.

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 A. Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571)272-4050 or by facsimile transmission at (571)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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/23/2010

Applicant	: Karthik Kaleedhass	: DECISION ON REQUEST FOR
Patent Number	: 7596245	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1026** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Ronald E. Greigg
Greigg & Greigg PLLC
1423 Powhatan Street, Unit One
Alexandria, VA 22314

Mail Date: 04/21/2010

Applicant	: Takashi Nakano	: DECISION ON REQUEST FOR
Patent Number	: 7647301	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,857	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **508** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Dr. Christian Holter
Herrgottwiesgasse 188
Graz 8055
AUSTRIA

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of Holter et al. :
Application No. 10.902,867 : Decision on Petition
Filing Date: August 2, 2004 :
Attorney Docket No. 083047-000000US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 9, 2006. A Notice of Abandonment was mailed on January 5, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

cc: Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of
SIMON ROBERT WALMSLEY
Application No. 10/902,883
Filed: 08/02/2004
Attorney Docket No. AUTH24US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 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 November 7, 2006, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on February 8, 2007. The Office mailed a Notice of Abandonment on June 14, 2007.

A review of the record reveals that petitioner filed a timely reply to the nonfinal Office action on December 4, 2006; however, petitioner placed an incorrect application number (10/902,833) on the reply. The reply in the form of an amendment, a terminal disclaimer (and fee), and IDS was located in the file of Application No. 10/902,833, and was transferred to the correct Application No. 10/902,883. Therefore, the USPTO received the reply on December 4, 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.

The Office finance records indicate that petitioner paid a $130.00 terminal disclaimer fee, a duplicate $130.00 terminal disclaimer fee, and a $180.00 fee for the submission of the IDS on December 4, 2006, in the incorrect Application No. 10/902,833. The $130.00 disclaimer fee and a $180.00 fee for the submission of the IDS were transferred to the correct Application No. 10/902,883. The duplicate $130.00 fee was refunded to the Deposit Account.

The Office records further reveal that petitioner paid a duplicate $130.00 terminal disclaimer fee, a duplicate $180.00 fee for the submission of the IDS, and a $1,500.00 petition fee on July 18, 2007, in Application No. 10/902,883. These fees are unnecessary and have been refunded to the Deposit Account.

The matter is being referred to Technology Center Art Unit 2134 for appropriate action on the reply filed December 4, 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OK TO ENTER: /AG/ (11/25/2009)

PATENT
Docket No.: 16356.869 (DC-06906)
Customer No.: 0000027683

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	§	
Lo, Michael et al	§	U.S. Patent No. 7,457,110
	§	
Serial No. 10/902,900	§	Issued: November 25, 2008
	§	
Filed: July 30, 2004	§	Confirmation No. 2910
	§	
For: METHOD AND APPARATUS FOR INSTALLING A COMPONENT IN AN INFORMATION HANDLING SYSTEM	§	

REQUEST FOR CERTIFICATE OF CORRECTION

Mail Stop Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request a Certificate of Correction to correct the mistake in the above-identified patent as set forth on the attached form PTO/SB/44.

Because the mistake was incurred through the fault of the U.S. Patent and Trademark Office, no fees are believed due for the consideration of the present paper. If, however, any fees are required, I authorize the Commissioner to charge such fees to Haynes and Boone, LLP's, Deposit Account No. 08-1394.

Respectfully submitted,

James R. Bell
Registration No. 26,528

Date: 3-31-2009

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue, Suite 700
Dallas, Texas 75219
Telephone: 512-867-8407
Facsimile: 214-200-0853

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:

on March 31, 2009
Date

Y. Kim Reyes
Y. Kim Reyes

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,457,110

APPLICATION NO.: 10/902,900

ISSUE DATE : November 25, 2008

INVENTOR(S) : Lo, Michael et al

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

Claim 4, Column 9, Lines 53-54 delete "U,shaped" and insert --U-shaped--.

Claim 9, Column 10, Lines 11-25, delete the entire claim 9 and insert new claim 9 --A computer system comprising:

a system component comprising a perimeter surface;

a carrier frame comprising a base and defining a component channel between a plurality of arms of similar length that extend from opposing ends of the base, wherein the system component is located in the component channel between the arms;

a resilient member coupled to the carrier frame and biasing at least one of the plurality of arms towards the component channel such that a component retaining force is provided through the direct engagement of the plurality of arms and the perimeter surface of the system component to couple the carrier frame to the system component and urge the plurality of arms into a parallel orientation to each other; and

a chassis guide member located on each arm.--

Claim 11, Column 10, Lines 28-32, delete the entire claim 11 and insert new claim 11 --The system of claim 9 further comprising:

at least one component locating member extending from the plurality of arms and engaging the system component through the perimeter surface in order to locate the component in the carrier frame.--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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.**

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PTO/SB/44 (09-07)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,457,110

APPLICATION NO.: 10/902,900

ISSUE DATE : November 25, 2008

INVENTOR(S) : Lo, Michael et al

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

Claim 15, Column 10, Lines 47-62, delete entire claim 15 and insert new claim 15

--An information handling system comprising:

a chassis;

a microprocessor coupled to the chassis;

a storage coupled to the microprocessor;

a component coupled to the microprocessor and comprising a perimeter surface;

a resilient carrier frame comprising a base and defining a component channel between a plurality of arms of similar length that extend from opposing ends of the base, at least one of the plurality of arms that extend from opposing ends of the base, at least the plurality of arms resiliently biased towards the component channel such that a component retaining force is provided through the direct engagement of the plurality of arms and the perimeter surface of the component to couple the resilient carrier frame to the component and urge the plurality of arms into a parallel orientation to each other; and

a chassis guide member extending from each arm, the chassis guide members engaging the chassis to couple the component to the chassis.--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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.

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/26/2010

Applicant	: Frank Joseph Pompei	: DECISION ON REQUEST FOR
Patent Number	: 7657044	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Karmon et al.	:	
Application No. 10/902,923	:	ON APPLICATION FOR
Filed: July 30, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 87534-4400	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed February 6, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred seventeen (817) days, not three hundred fifty (350) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

[1] Applicants assert this calculation noting that the notice of allowance was mailed on January 6, 2009.

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

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

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

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Yoram Karmon

Application No.: 10/902,923

Filing Date: July 30, 2004

For: HSP PEPTIDES AND ANALOGS FOR MODULATION OF IMMUNE RESPONSES VIA ANTIGEN PRESENTING CELLS

Confirmation No.: 6974

Group Art Unit: 1643

Examiner: Christopher H. Yaen

Attorney Docket No.: 87534-4400

07/13/2009 CKHLOK 00000009 501814 10902923
01 FC:1455 200.00 DA

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705 (b)

Sir:

Responsive to the Determination of Patent Term Adjustment provided with the Notice of Allowance mailed January 6, 2009, and in light of the recent ruling in *Wyeth v. Dudas,* No. 07-1492, slip op. (D.D.C. Sept. 30, 2008), the Applicants submit this Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(b).

The Commissioner of Patents is authorized to charge the requisite fee of $200 pursuant to 37 CFR 1.18(e) to Winston & Strawn LLP Deposit Account No. 50-1814. The Commissioner of Patents is also authorized to charge any other fees required in connection with this filing.

The Determination of Patent Term Adjustment mailed by the U.S. Patent and Trademark Office (USPTO) indicates that the instant application has been granted a 350 day Patent Term Adjustment. Applicants submit that, due to the recent *Wyeth* decision, the correct Patent Term Adjustment should be 817 days. Applicants, therefore, request that the instant application be granted an additional 467 days of patent term as of January 6, 2009.

Applicants agree with the Patent Office's initial determination, which, for purposes of this request and in keeping with the explanation provided in *Wyeth* and in 35 U.S.C. § 154(b)(1), Applicants will refer to as the "A delay." In the "A delay" the Patent Office delayed prosecution by issuing the first communication 14 months plus 469 days (January 12, 2007) after the filing of the application (37 CFR 1.703(a)(1)). Further, the Patent Office delayed mailing a notice of allowance by 59 days from the advisory action of October 1, 2008. Therefore the

Patent Office was responsible for a total of 528 (469 + 59 = 528) days delay. In the "A delay" the Applicants delayed prosecution by filing a response to the Notice to File Missing Parts of Nonprovisional Application mailed on September 24, 2004, 3 months plus 90 days after the mailing of the action (37 CFR 1.704(b)). Applicants also delayed prosecution by filing a response to the Office Action dated January 12, 2007, 3 months plus 54 days after the mailing of the action (37 CFR 1.704(b)) Applicants further delayed prosecution by filing a response to the Office Action dated August 23, 2007, 3 months plus 33 days after the mailing of the action (37 CFR 1.704(b)). Lastly, Applicants delayed prosecution by filing a response to the Office Action mailed April 7, 2008, 3 months plus 1 day after the mailing of the action (37 CFR 1.704(b)). Therefore, the Applicants were responsible for a total of 178 days delay, resulting in an "A delay" of 350 days (528 - 178 = 350).

The Office, however, has **not** included in the Patent Term Adjustment the days related to the "B delay," which is the delay resulting from an application pending longer than three years. According to 37 C.F.R. 1.703(b):

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued ...

The instant application was filed on July 30, 2004 and received a Notice of Allowance on January 6, 2009, which is 3 years plus 526 days after the filing date, resulting in a "B delay" of 526 days.

The *Wyeth* decision states that "the 'A period' and 'B period' overlap only if they occur on the same calendar day or days" *(Wyeth,* No. 07-1492, slip op. at 8). Thus, according to the *Wyeth* decision, Applicants are entitled to both the "A delay" of 350 days and the "B delay" of 526 days minus any overlap which occurs on the same calendar days. There is an overlap of 59 same calendar days between the "A delay" (350 days) and the "B delay" (526). Thus, the total Patent Term Adjustment due to both the "A" and "B" delays and minus the overlap is 817 days (350 + 526 - 59 = 817) as of January 6, 2009. For these reasons, the Patent Term Adjustment for this case should be 817 days as of January 6, 2009.

In light of the foregoing, the Applicants respectfully request that an additional 467 days of Patent Term Adjustment be added to the patent term for USPTO delay, resulting in a total Patent Term Adjustment of 817 days. If a telephone conference would expedite the consideration of this Request for Reconsideration of Patent Term Adjustment, please contact the undersigned agent as indicated below.

Respectfully submitted,

February 6, 2009
Date

Jasbir Singh, Reg. No. 43,126
for: Allan A. Fanucci, Reg. No. 30,256

WINSTON & STRAWN LLP
Customer No. 32847

(202) 282-5831

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COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2401

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OFFICE OF PETITIONS

In re Patent No. 7,388,008 :
Issued: June 17, 2008 : DECISION REGARDING PTA AND
Application No. 10/902,935 : CERTIFICATE OF CORRECTION
Filed: August 2, 2004 :
Atty. Dkt. No.: 015332.01005- :
US00 :

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed August 15, 2008. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,388,008 on June 17, 2008. The patent issued with a patent term adjustment (PTA) of 123 days. Patentees indicate that the adjustment may be longer than appropriate as the Office failed to assess a reduction in connection with the Information Disclosure Statement (IDS) filed October 24, 2007.

The calculation of adjustment has been reviewed and found to contain error. The correct adjustment at the time of issuance is 95 days.

As previously determined, the application is entitled to an adjustment of 207 days in accordance with 37 CFR 1.702(a)(1). Further, the adjustment is properly reduced 84 days in accordance with 37 CFR 1.704(b).

As indicated by patentees, the Office neglected to assess a reduction in connection with the IDS filed October 24, 2007. In accordance with 37 CFR 1.704(c)(8), the reduction commenced September 27, 2007, the day after the date that an initial reply (RCE) was filed, and ended October 24, 2007, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 95 days (adjustment totaling 207 days less reductions of 112 days).

No additional fee has been assessed in connection with this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 95 days.

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

Kery A. Fries

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

CC: Draft Certificate of Correction

Day : Monday
Date: 3/23/2009

PALM INTRANET

Time: 15:45:09

PTA Calculations for Application: 10/902935			
Application Filing Date:	08/02/2004	PTO Delay (PTO):	207
Issue Date of Patent:	06/17/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	84
Post-Issue Petitions:	0	Total PTA (days):	95
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	03/23/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
73	06/17/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	03/14/2008	EXPORT TO FINAL DATA CAPTURE			
71	03/13/2008	DISPATCH TO FDC			
70	03/13/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	03/05/2008	ISSUE FEE PAYMENT VERIFIED			
68	03/05/2008	ISSUE FEE PAYMENT RECEIVED			
67	12/10/2007	EXPORT TO INITIAL DATA CAPTURE			
66	12/07/2007	MAIL NOTICE OF ALLOWANCE			
65	11/06/2007	ISSUE REVISION COMPLETED			
64	11/06/2007	DOCUMENT VERIFICATION			
63	12/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	12/04/2007	NOTICE OF ALLOWABILITY			
61	09/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	10/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	10/24/2007	REFERENCE CAPTURE ON IDS			
56	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	10/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	09/26/2007	REFERENCE CAPTURE ON IDS			
53	10/05/2007	DATE FORWARDED TO EXAMINER			
		REQUEST FOR CONTINUED EXAMINATION			

52	09/26/2007	(RCE)			
51	10/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	09/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	09/26/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	07/03/2007	EXPORT TO INITIAL DATA CAPTURE			
47	06/27/2007	MAIL NOTICE OF ALLOWANCE			
46	06/22/2007	ISSUE REVISION COMPLETED			
45	06/22/2007	DOCUMENT VERIFICATION			
44	06/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	06/22/2007	NOTICE OF ALLOWABILITY			
42	03/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41.7	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	03/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	04/12/2007	DATE FORWARDED TO EXAMINER			
39	03/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	04/12/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	04/06/2007	CORRESPONDENCE ADDRESS CHANGE			
36	04/06/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
35	03/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	02/28/2007	FINISHED INITIAL DATA CAPTURE			
33	01/08/2007	EXPORT TO INITIAL DATA CAPTURE			
32	01/04/2007	MAIL NOTICE OF ALLOWANCE			
31	12/19/2006	ISSUE REVISION COMPLETED			
30	12/19/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	12/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	12/19/2006	NOTICE OF ALLOWABILITY			
27	07/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	10/27/2006	DATE FORWARDED TO EXAMINER			
25	10/19/2006	RESPONSE AFTER NON-FINAL ACTION		84	21

24	10/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	07/28/2006	REFERENCE CAPTURE ON IDS			
22.7	07/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/27/2006	MAIL NON-FINAL REJECTION	207		-1
20	04/26/2006	NON-FINAL REJECTION			
19	01/31/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	01/31/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	12/16/2004	APPLICATION RETURN FROM OIPE			
16	12/16/2004	APPLICATION IS NOW COMPLETE			
15	12/16/2004	APPLICATION RETURN TO OIPE			
14	12/16/2004	APPLICATION RETURN FROM OIPE			
13	12/16/2004	APPLICATION RETURN TO OIPE			
12	12/16/2004	APPLICATION DISPATCHED FROM OIPE			
11	12/16/2004	APPLICATION IS NOW COMPLETE			
10	12/08/2004	ADDITIONAL APPLICATION FILING FEES			
9	12/08/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	10/13/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/20/2004	CLEARED BY L&R (LARS)			
4	09/15/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/15/2004	CASE CLASSIFIED BY OIPE			
2	08/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/02/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,388,008 B2
DATED	:	June 71, 2008
INVENTOR(S)	:	Stranix, 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 123 days

--Delete the phrase "by 123 days" and insert – by 95 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20004-2401

In re Patent No. 7,388,008	:
Issued: June 17, 2008	: DECISION REGARDING PTA AND
Application No. 10/902,935	: CERTIFICATE OF CORRECTION
Filed: August 2, 2004	:
Atty. Dkt. No.: 015332.01005-US00	:

This letter is in response to the "RESPONSE TO DECISION REGARDING PTA AND CERTIFICATE OF CORRECTION," filed April 22, 2009. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,388,008 on June 17, 2008. The patent issued with a patent term adjustment (PTA) of 123 days. Patentees indicate that the adjustment may be longer than appropriate as the Office failed to assess a reduction in connection with the Information Disclosure Statement (IDS) filed October 24, 2007.

The correct adjustment at the time of issuance is 95 days.

The application is entitled to an adjustment of 207 days in accordance with 37 CFR 1.702(a)(1). The adjustment is properly reduced 84 days in accordance with 37 CFR 1.704(b).

The Office neglected to assess a reduction in connection with the IDS filed October 24, 2007. In accordance with 37 CFR 1.704(c)(8), the reduction commenced September 27, 2007, the day after the date that an initial reply (RCE) was filed, and ended October 24, 2007, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 95 days (adjustment totaling 207 days less reductions of 112 days).

No additional fee has been assessed in connection with this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 95 days.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,388,008 B2
DATED	:	June 17, 2008
INVENTOR(S)	:	Stranix, 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 123 days

Delete the phrase "by 123 days" and insert – by 95 days--

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Paper No. 40605

PAUL E. SHAPIRO
10424 Collingham Drive
Fairfax, VA 22032

APR 13 2005

In re Application of:
Arnold Itzkowitz
Serial No.: 10/902,946
Filed: August 02, 2004
Attorney Docket No.: **U0001**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 03, 2005, and resubmitted on March 24, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

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

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

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

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

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MARTIN MOYNIHAN
C/O ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY, SUITE 207
ARLINGTON, VA 22202

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Alex Finsterbush	:	
Application No. 10/902,950	:	ON PETITION
Filed: August 2, 2004	:	
Attorney Docket No. 26273	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 8, 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). Two-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 April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395 and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3736 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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

Mail Date: 07/26/2010

Applicant	: Michael Yip	: DECISION ON REQUEST FOR
Patent Number	: 7657635	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/902,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Karl G. Auerbach	:	
Application No. 10/902,971	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. CISCP074C1/9731	:	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, 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 attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed September 18, 2008 that requires a reply from the applicant.

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

/APRIL M. WISE/
April M. Wise
Petitions Examiner
Office of Petitions

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Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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In re Application of	:	
Lorentz, et al.	:	
Application No. 10/902,972	:	DECISION ON PETITION
Filed: July 31, 2004	:	TO WITHDRAW
Attorney Docket No. RUS178	:	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.

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

Mail Date: 04/21/2010

Applicant	: Uwe Schwerk	: DECISION ON REQUEST FOR
Patent Number	: 7580993	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/902,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PETER J. KNUDSEN
KNUDSEN, ATTORNEY AT LAW LLC
13710 RIVIERA PLACE NE
SEATTLE, WA 98125

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OFFICE OF PETITIONS

In re Application of Finney	:	
Application No. 10/903,001	:	Decision on Petition
Filing Date: July 30, 2004	:	
Attorney Docket No. 5.003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **granted**.

There is no indication that the person signing the instant petition, Joseph Cagno, was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If Cagno wishes 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 Cagno, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 13, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on Monday, August 14, 2006. A Notice of Abandonment was mailed October 31, 2006.

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.

As to item (1), petitioner has submitted a reply to the non-final Office action.

As to item (2), petitioner has submitted the petition fee of $750.

As to item (3), petitioner has made the required statement but has misstated the date of abandonment.

The petition includes payment for a three-month extension of time. An attachment to the petition states, due to the extension time, the date of abandonment is September 13, 2006.

A request for an extension of time made beyond the maximum extendable period for reply (in this case September 13, 2006) is untimely and cannot be accepted by the Office. Therefore, the Office has scheduled a refund of the $510 extension of time fee submitted with the petition.

The Office will interpret the statement by petitioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, as covering the time period from August 14, 2006, until the filing of the instant petition. If the entire delay from the date of abandonment until the date the petition was filed was not unintentional, petitioner must notify the Office.

Patent Agent Joseph Cagno signed the petition. Cagno was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Cagno was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, based on statements by Cagno in the attachment to the petition, the statement by Cagno that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.

As to item (4), the application is a nonprovisional application filed July 30, 2004. Therefore, a terminal disclaimer is unnecessary.

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 1633 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

cc: Joseph Cagno
Bldg 2900
16101 Greenwood Ave. North
Shoreline, WA 98133

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

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DEC 30 2005
TECHNOLOGY CENTER 2100

In re Application of SAKAGUCHI et al	:	
Application No.: 10/903,006	:	DECISION ON PETITION
Filing Date: August 2, 2004	:	FOR ACCELERATED
For: FILE MANAGEMENT METHOD IN A	:	EXAMINATION UNDER
DISTRIBUTED STORAGE SYSTEM	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed October 24, 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 (D), the petition does not include a copy of each of the references deemed most closely related to the subject matter encompassed by the claims. Specifically, a copy of the document "An Overview of the Andrew File System" (Howard) has not been furnished. It is further noted that such document is not listed in any Information Disclosure Statement.

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. In the present case, for each cited reference, the petition states that essentially all of the limitations of the independent claims are not taught or suggested. However, a 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. Furthermore, it would be difficult to conclude that the pre-examination search was directed to the claimed invention if essentially none of the claim limitations were found in the "most closely related" prior art.

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

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Technology Center 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

In re Application of: SAKAGUCHI, et al.
Application No. 10/903,006
Filed: 02 August 2004
For: FILE MANAGEMENT METHOD IN A DISTRIBUTED STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 28 February 2006, to make the above-identified Application special, under 37 CFR 102(d) and MPEP § 708.02(VIII) : Accelerated Examination.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The statements on page 24 and 27, which identifies those limitations found in independent claims 1, 8, 11, 13 & 14, corresponding to those limitations "highlighted" (see pages 24 – 27 of the instant petition), is taken to be identification to sufficient detail of the limitations in the independent claims of the present invention that are patentable over the references cited to be most closely related.

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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OCT 19 2005

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

In re Application of	:	
Randolf Von Oepen, et al	:	
Serial No.: 10/903,014	:	DECISION ON PETITION
Filed: July 30, 2004	:	
For: Methods and Apparatus for a Stent	:	
Having an Expandable Web Structure and	:	
Delivery System	:	

This is in response to applicants' petition filed July 20, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R Schmidt, Director
Technology Center 3700

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BOULDER, CO 80306

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OFFICE OF PETITIONS

In re Application of :
Olaveson :
Application No. 10/903,019 :
Filed: July 30, 2004 : ON PETITION
Attorney Docket No. N/A :
For: GOLF STICK :

This is a decision on the petition under 37 CFR 1.181, filed March 15, 2007 (certificate of mailing date March 13, 2007), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit the issue fee in reply to the May 22, 2006 Notice of Allowance and Fee(s) Due, which set a three month period for reply. No reply being received, the Office considered this application abandoned on August 23, 2006. A Notice of Abandonment was mailed on October 2, 2006.

Petitioner asserts that the May 22, 2006 Notice was not received at the correspondence address of record. Petitioner argues that the failure of the USPTO to enter a power of attorney and change of correspondence address, filed on May 3, 2006, resulted in the May 22, 2006 Notice being directed to an out-of-date address and therefore requests withdrawal of the holding of abandonment.

MPEP 409.01 states: Unless a power of attorney is coupled with an interest (i.e., **>a patent practitioner< is assignee or part-assignee), the death of the inventor (or one of the joint inventors) terminates the power of attorney given by the deceased inventor. A new power from the heirs, administrators, executors, or assignees is necessary if the deceased inventor is the sole inventor or all powers of attorney in the application have been terminated.

In the instant case, a Power of Attorney and Correspondence Address Indication Form executed by Florence R. Olaveson was filed on May 3, 2006. Unfortunately, Florence R. Olaveson did not explain her relationship to James Olaveson in the document. There was no mention of James Olaveson being deceased. In short, the Office received a power of attorney/change of correspondence address signed by a person not empowered to make the requested changes. Therefore, the Office properly did not enter the requested changes and the May 22, 2006 Notice of Allowance and Fee(s) Due and Notice of Allowability were mailed to the correspondence address on record, which was:

James Olaveson
164 Loma Drive
Camarillo CA 93010

The application went abandoned because petitioner did not submit an acceptable Power of Attorney and Correspondence Address Indication Form. The petition to withdraw the holding of abandonment is **dismissed**.

It is noted that a registered practitioner filed an amendment on May 3, 2006, at the same time the unacceptable Power of Attorney and Correspondence Address Indication Form signed by Florence R. Olaveson was filed.

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).

Petitioner is strongly encouraged to file a petition to revive under the unintentional standard of 137(b).

Petitioner is informed that the correspondence address of record still has not been changed. Please submit appropriate power of attorney/change of correspondence address requests with any reconsideration or new petition.

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

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

EMERY L. TRACY
P.O. BOX 1518
BOULDER, CO 80306

COPY MAILED

AUG 0 4 2008

In re Application of	:	
Olaveson	:	
Application No. 10/903,019	:	
Filed: July 30, 2004	:	ON PETITION
Attorney Docket No. N/A	:	
For: GOLF STICK	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2008 (certificate of mailing date April 7, 2008), requesting revival of the above-identified application under the unintentional delay provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to submit the issue fee in reply to the May 22, 2006 Notice of Allowance and Fee(s) Due, which set a three month period for reply. No reply being received, the Office considered this application abandoned on August 23, 2006. A Notice of Abandonment was mailed on October 2, 2006.

Petitioner has submitted a proper reply in the form of the issue fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the May 22, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

All requirements under 37 CFR 1.137(b) being met, the petition is **granted**.

The power of attorney/change of correspondence address, filed April 10, 2008 (certificate of mailing date April 7, 2008) has been accepted and made of record. Please find enclosed a notice regarding the change in power of attorney/address.

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice regarding change in power of attorney/correspondence address

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
10/903,019	07/30/2004	James Olaveson	

CONFIRMATION NO. 3209

POA ACCEPTANCE LETTER

65242
EMERY L. TRACY
P.O. BOX 1518
BOULDER, CO 80306

OC000000031207234

Date Mailed: 07/30/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/10/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
White et al.	:	
Application No. 10/903,021	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. WCB 3.0-037	:	

This is a decision on the petition, filed April 5, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to reply to the final Office action mailed September 11, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 22, 2010.

Petitioner asserts that the Office action dated September 11, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) A statement from 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.

(2) A statement from the practitioner 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.

(3) 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.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The instant petition does not comply with item (1) above. A statement describing the system used for recording an action received was included in the instant petition. However, petitioner did not fully comply with item (1) as the statement did not establish that the system was sufficiently reliable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark G. Bocchetti
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Hawkins, et al.
Application No. 10/903,047
Filed: October 14, 2004
For: CONTINUOUS INKJET PRINTER HAVING ADJUSTABLE DROP PLACEMENT
Attorney Docket No: 87315WRZ
Pub. No.: US 2006/0082606 A1
Pub. Date: April 20, 2006

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on August 14, 2006 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because Figures 7a-7c were omitted from the patent application publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on August 14, 2006, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED
AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Higuchi, et al.	:	
Filed: July 30, 2004	:	ON PETITION
Application No. 10/903,068	:	
Dkt. No.: 4853-0047-01	:	

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.181 to accord the above-identified application a filing date of July 30, 2004.

The petition is **GRANTED**.

The application was submitted July 30, 2004 without drawings. A Notice of Incomplete Nonprovisioanl Application (Notice) was mailed October 27, 2004 by the Office of Initial Patent Examination. The Notice indicated, *inter alia*, that the instant application had not been accorded a filing date because the application had been submitted without drawings in accordance with 37 CFR 1.113 (first sentence).

In response to the Notice, a preliminary amendment was submitted December 7, 2004 requesting entry of drawings. The preliminary amendment indicates that the drawings in question appear in the nonprovisional App. No. 09/673,084 to which the instant application claims the benefit of priority.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that a nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP

601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, is entitled to a filing date of July 30, 2004.

Thus, the Notice, relative to the drawing omission, was mailed is error and is hereby withdrawn to that extent.

The application will be processed with only the papers present on July 30, 2004, without drawings as part of the original disclosure.

The preliminary amendment will be examined in due course.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 30, 2004 using only the papers present on that day and without entry of any drawings into the record.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 26, 2007

Mark G. Bocchetti
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, New York 10112-3800

In re Application of: Yee S. Ng, et al.
Serial No.: 10/903,072
Filed: July 30, 2004
Docket: N81824RLW

DECISION ON PETITION UNDER *37 CFR 1.48(a)* **on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.48a" filed March 8, 2007 to add the following inventors: Lawrence W. Fisher.

The petition is GRANTED.

The inventive entity is therefore: Yee S. Ng, Stacy M. Munechika, Dennis R. Kamp and Lawrence W. Fisher.

The application is being forwarded to the publications for further action.

Matthew Luu
Supervisory Patent Examiner,
Art Unit 2861

IFW
DAC

OIPE IAP8
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No. N81824RLW
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yee S. Ng, et al.

TITLE

EXPOSURE-ENERGY-DENSITY AND DYNAMIC EFFECT BASED UNIFORMITY CORRECTION FOR LED PRINTHEADS

Serial No.: 10/903,072

Filed: July 30, 2004

Group Art Unit: 2861

Examiner: Kainoa Wright

I hereby certify that this correspondence is being deposited today with the United States Postal Services as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Anita Marie Barker

Anita Marie Barker

March 6, 2007

DATE

ok to enter

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

03/08/2007 HDEMESS2 00000041 050225 10903072
01 FC:1464 130.00 DA

Sir:

PETITION AND FEE UNDER RULE 1.48(a) TO ADD TO NAMED INVENTOR

This petition is to correct the naming of inventors under 37 CFR 1.48(a). Accordingly, please add Lawrence W. Fisher as a co-inventor of the subject matter claimed in this patent application, and grant the original filing date of July 30, 2004.

Attached are:

(a) a Statement by each of the inventors that the error occurred without deceptive intention on his part;

(b) a Declaration by each of the actual inventors as required by 37 CFR 1.63; and

(c) the written consent of the assignee (including a copy of the newly executed Assignment and Recordation Cover Sheet. A copy of the newly executed Assignment and a copy of the Recordation Cover Sheet was mailed under separate cover to Mail Stop - Assignment Recordation Services).

Applicants respectfully request approval of this petition.

Applicants request that the fee charged under 37 CFR 1.17(i) for this petition and for any other fees be charged to Eastman Kodak Company Deposit Account No. 05-0225 of the undersigned. **A duplicate copy of this request is enclosed.**

Respectfully submitted,

Robert Luke Walker
Attorney for Applicant(s)
Registration No. 30,700

Robert Luke Walker/amb
Rochester, NY 14650
Telephone: (585) 588-2739
Facsimile: (585) 477-1148

OIPE
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No. N81824RLW
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Inventor(s):

Yee S. Ng, et al.

TITLE

EXPOSURE-ENERGY-DENSITY AND DYNAMIC EFFECT BASED UNIFORMITY CORRECTION FOR LED PRINTHEADS

Serial No.: 10/903,072

Filed: July 30, 2004

Group Art Unit: 2861

Examiner: Kainoa Wright

I hereby certify that this correspondence is being deposited today with the United States Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Anita Marie Barker
Anita Marie Barker

March 6, 2007
DATE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT

I, Yee S. Ng, declare that:

In view of the papers filed, it has been found that this application as filed (USSN 10/903,072), through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Lawrence W. Fisher.

Yee S. Ng
Yee S. Ng

2/12/2007
Date

I, Stacy M. Munechika, declare that:

In view of the papers filed, it has been found that this application as filed (USSN 10/903,072), through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Lawrence W. Fisher.

Stacy M. Munechika

2/12/2007

Date

I, Dennis R. Kamp, declare that:

In view of the papers filed, it has been found that this application as filed (USSN 10/903,072), through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Lawrence W. Fisher.

Dennis R. Kamp

Feb 12, 2007

Date

I, Lawrence W. Fisher, declare that:

In view of the papers filed, it has been found that this application as filed (USSN 10/903,072), through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Lawrence W. Fisher.

Lawrence W. Fisher

Lawrence W. Fisher

2/23/07

Date

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,

Robert Luke Walker

Robert Luke Walker
Attorney for Applicant(s)
Registration No. 30,700

Robert Luke Walker/amb
Rochester, NY 14650
Telephone: (585) 588-2739
Facsimile: (585) 477-1148

OIPE IAP6
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Attorney Docket No. N81824RLW
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yee S. Ng, et al.

TITLE

EXPOSURE-ENERGY-DENSITY AND DYNAMIC EFFECT BASED UNIFORMITY CORRECTION FOR LED PRINTHEADS

Serial No.: 10/903,072

Filed: July 30, 2004

Group Art Unit: 2861

Examiner: Kainoa Wright

I hereby certify that this correspondence is being deposited today with the United States Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Anita Marie Barker

Anita Marie Barker

March 6, 2007

DATE

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

CONSENT OF ASSIGNEE TO CORRECTION AND/OR ADDITION TO ORIGINAL NAMED INVENTOR(S)

Name and Address of Assignee

Eastman Kodak Company

343 State Street

Rochester, NY 14650

Assignment

☑ Recorded on July 30, 2004

Reel: 15644

Frame: 525-527

Assignment (Continued)

☑ Recorded herewith

☑ a copy of newly executed ASSIGNMENT

and Recordation Cover Sheet is attached

(FORM PTO 1595).

(a copy of the Assignment and Recordation Cover Sheet was also mailed under separate cover to Mail Stop Assignment Recordation Services)

Assignee hereby consents to the correction of inventorship to the application filed

☐ herewith

☑ on July 30, 2004

The Commissioner is hereby authorized to charge any fees which may be required to Eastman Kodak Company Deposit Account No. 05-0225.

Respectfully submitted,

Robert Luke Walker
Attorney for Applicant(s)
Registration No. 30,700

Robert Luke Walker/amb
Rochester, NY 14650
Telephone: (585) 588-2739
Facsimile: (585) 477-1148

OIPE
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Combined Declaration For Patent Application and Power of Attorney

ATTORNEY DOCKET N81824RLW

As below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

EXPOSURE-ENERGY-DENSITY AND DYNAMIC EFFECT BASED UNIFORMITY CORRECTION FOR LED PRINTHEADS

The specification of which (check only one item below):

[ ] is attached hereto.

[X] **was filed as United States Application Serial No. 10/903,072 on July 30, 2004**
was amended on (if applicable).

[ ] was filed as PCT international application Number on and was amended on (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the U.S. Patent & Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a-d) or 365 (b) of any foreign application(s) for patent or inventor's certificate, or (365 (a) of any PCT international application(s) which designates at least one country other than the United States of America, listed below and have also identified below any foreign applications(s) for patent or inventor's certificate or any PCT international application(s) designating a least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:

COUNTRY (if PCT, indicate PCT)	APPLICATION NUMBER	DATE OF FILING (month/day/year)	PRIORITY CLAIMED UNDER 35 USC §119			
				YES		NO
				YES		NO
				YES		NO

I hereby claim the benefit under Title 35, United States Code, 119 §(e) of any United States provisional application(s) listed below:

PRIOR PROVISIONAL APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119 (e):

PROVISIONAL APPLICATION NUMBER	FILING DATE (month/day/year)

I hereby claim the benefit under Title 35, United States Code, §120 of any prior United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior applications(s) in the manner provided by the first paragraph of Title 35, §112, I acknowledge the duty to disclose to the U.S. Patent & Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations §1.56, which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

PRIOR US APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S FOR BENEFIT UNDER 35USC§120:

U.S. APPLICATIONS			STATUS (Check one)		
U.S. APPLICATION NUMBER	U.S. FILING DATE		PATENTED	PENDING	ABANDONED
PCT APPLICATIONS DESIGNATING THE U.S.					
PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NUMBERS ASSIGNED (if any)			

Combined Declaration For Patent Application and Power of Attorney *(Continued)*	ATTORNEY DOCKET N81824RLW

POWER OF ATTORNEY: As a named inventor, I hereby appoint the attorney(s) and/or agent(s) associated with Eastman Kodak Company Customer No. 01333 to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

OIPE
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Send Correspondence to:	Direct Telephone Calls to: *(name and telephone number)*
Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201	Robert Luke Walker (585) 588-2739 FAX: (585) 477-1148

2	FULL NAME OF INVENTOR	FAMILY NAME Ng	FIRST GIVEN NAME Yee	SECOND GIVEN NAME S.
0	RESIDENCE & CITIZENSHIP	CITY Fairport	STATE OR FOREIGN COUNTRY New York 14450 USA	COUNTRY OF CITIZENSHIP USA
1	BUSINESS ADDRESS	BUSINESS ADDRESS Eastman Kodak Company	CITY 343 State Street, Rochester	STATE & ZIP CODE (COUNTRY) New York 14650 USA
2	FULL NAME OF INVENTOR	FAMILY NAME Munechika	FIRST GIVEN NAME Stacy	SECOND GIVEN NAME M.
0	RESIDENCE & CITIZENSHIP	CITY Fairport	STATE OR FOREIGN COUNTRY New York 14450 USA	COUNTRY OF CITIZENSHIP USA
2	BUSINESS ADDRESS	BUSINESS ADDRESS Eastman Kodak Company	CITY 343 State Street, Rochester	STATE & ZIP CODE (COUNTRY) New York 14650 USA
2	FULL NAME OF INVENTOR	FAMILY NAME Kamp	FIRST GIVEN NAME Dennis	SECOND GIVEN NAME R.
0	RESIDENCE & CITIZENSHIP	CITY Churchville	STATE OR FOREIGN COUNTRY New York 14428 USA	COUNTRY OF CITIZENSHIP USA
3	BUSINESS ADDRESS	BUSINESS ADDRESS	CITY	STATE & ZIP CODE (COUNTRY)
2	FULL NAME OF INVENTOR	FAMILY NAME Fisher	FIRST GIVEN NAME Lawrence	SECOND GIVEN NAME W.
0	RESIDENCE & CITIZENSHIP	CITY Fishers	STATE OR FOREIGN COUNTRY New York 14453 USA	COUNTRY OF CITIZENSHIP USA
4	BUSINESS ADDRESS	BUSINESS ADDRESS	CITY	STATE & ZIP CODE (COUNTRY)
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
5	BUSINESS ADDRESS	BUSINESS ADDRESS	CITY	STATE & ZIP CODE (COUNTRY)
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
6	BUSINESS ADDRESS	BUSINESS ADDRESS	CITY	STATE & ZIP CODE (COUNTRY)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE OF INVENTOR 201	SIGNATURE OF INVENTOR 202	SIGNATURE OF INVENTOR 203
Yee S. Ng	S. M. Munechika	Dennis R. Kamp
DATE 2/12/07	DATE 2/12/07	DATE 2/12/07
SIGNATURE OF INVENTOR 204	SIGNATURE OF INVENTOR 205	SIGNATURE OF INVENTOR 206
Lawrence W. Fisher		
DATE 2/23/07	DATE	DATE

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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DEC 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffery W. Johnson, et. al.	:	
Application No. 10/903,089	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. FA1204USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 15, 2006, 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 June 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,020 for a three months extension of time filed on December 15, 2006. 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 $1,020 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 1773, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Amin, Turocy & Calvin LLP
1900 E. 9th Street
24th Floor, National City Center
Cleveland OH 44114

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FEB 20 2008

In re Application of	:	
Amol Rajkotia et al.	:	
Application No. 10/903,093	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 040318/QUALP856US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 4, 2007. The Notice of Abandonment was mailed April 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 power of attorney given to the petitioner was revoked by the assignee on November 20, 2007. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 2617for 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

cc: **Qualcomm Incorporated**
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	For: METHOD FOR WAKING A WIRELESS DEVICE
Ami Rajkotia et al.	)	
Serial No.: 10/903,093	)	Examiner: Desir, Pierre Louis
Filing Date: July 30, 2004	)	Art Unit: 2681
	)	Conf. No.: 3989

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b))

VIA EFS

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

1. This application became abandoned on April 4, 2007.

2. This petition is filed:

   ☒ within one year of the date of abandonment.
   ☒ Applicants request an extension of time to respond to Office Action, please charge the requisite fee to Deposit Account No. 17-0026.
   ☐ within three months of the date of the first decision on a petition to revive under 37 CFR 1.137(a) which was filed within one year of the date of abandonment.
   ☐ enclosed is a petition and fee for extension of the one month period to

3. ☒ This application became abandoned unintentionally.

4. Proposed response:

   ☒ An Amendment is filed simultaneous with this Petition to Revive, along with an Request for Continued Examination (RCE).
   ☐ is attached (Restriction Requirement).
   ☐ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

02/20/2008 CKHLOK 00000004 170026 10903093

01 FC:1453 1500.00 DA
02 FC:1801 790.00 DA

5. Fee (37 CFR 1.17(m))

Application status is:

☐ small entity – fee $750.00.0
  ☐ Verified Statement attached.
  ☐ Verified Statement filed.
☒ other than small entity – fee $1,500.00.

6. Payment of fee:

☒ Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated in the amount of $1,500.00.
The Commissioner is hereby authorized to charge payment of any additional fees which may be required, or credit any overpayment, to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed.

☒ The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

The undersigned declares further that all statements made herein are of his or her own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: April 18, 2007

By: _____
David J. Huffaker, Reg. No. 56,771
858-845-2110

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502

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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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JUL 21 2006
OFFICE OF PETITIONS

In re Application of :
Kohli et al. :
Application No. 10/903,098 :
Filed: July 30, 2004 :
Attorney Docket Number: :
M-15533-3C US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 3, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 8, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on November 9, 2005. A Notice of Abandonment was mailed March 8, 2006.

Included with the petition is an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2631 for processing of the Reply/Amendment in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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DEC 0 1 2006

OFFICE OF PETITIONS

In re application of :
Sanjai Kohli et al :
Application No. 10/903,098 :
Filed: July 30, 2004 :
Attorney Docket No. M-15533-3C US :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

The large entity portion of the filing fee $405($790-$385) was charged to deposit account no. 50-2257 on April 5, 2006.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of Yan et al. :
Application No. 10/903,110 :
Filing Date: July 30, 2004 :
Attorney Docket No. 16188.0004U1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2008, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on May 7, 2007. The Office action set an extendable shortened statutory period for reply.

The Office mailed a Notice of Abandonment on January 9, 2008. The Notice of Abandonment stated the application was abandoned because the Office had not received a reply to the May 7, 2007 Office action.

Petitioner requests withdrawal of the holding of abandonment. Petitioner contends a reply and request for an extension of time were timely filed in response to the May 7, 2007 Office action.

The Office has located the reply and request for extension of time filed by petitioner on November 2, 2007, and Office finance records confirm receipt of payment for a three-month extension of time and other fees on November 2, 2007. Therefore, the application is not abandoned. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1655 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

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.
10/903,121	07/30/2004	Glen Peterson	60,680-799	5017

7590 05/12/2008
DYKEMA GOSSETT PLLC
Suite 300
39577 Woodward Avenue
Bloomfield Hills, MI 48304

EXAMINER
LUONG, VINH

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
05/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

MAY 0 9 2008

TECHNOLOGY CENTER 3600

DYKEMA GOSSETT PLLC
Suite 300
39577 Woodward Avenue
Bloomfield Hills, MI 48304

In re Application of
PETERSON et al.
Appl. No.10/903,121
Filed: July 30, 2004
For: **RIBBED COVER FOR DRIVE AXLE HOUSING**

PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on Applicants' Petition under 37 CFR 1.144 filed on November 7, 2007 to review and withdraw the Restriction Requirement of May 2, 2007.

The Petition is **GRANTED**.

A review of the record indicates that on November 3, 2006, the Examiner issued a non-final Office Action examining claims 1-15 on the merits. On February 5, 2007, Applicants filed a response to the Office Action including amendments to claims 3, 6, 12 and 14-15 to change claim dependencies and delete language deemed by the Examiner to be indefinite. Applicant also added new claims 16-18.

On May 2, 2007, the Examiner issued a second non-final Office Action setting forth a restriction requirement and arguing for the first time that the invention disclosed three patentably distinct species of invention shown in (a) Figures 1-6; (b) Figures 7-8; and (e) Figure 9. On May 23, 2007, Applicants filed a response to the second non-final Office Action. Applicants elected the species of the invention shown in Figures 1-6 of the application. Applicants also requested reconsideration of the restriction requirement and specifically set forth the grounds on which Applicants traversed the restriction requirement. In particular, Applicants argued that the Examiner had failed to establish one of the two requirements for restriction--that there would be a serious burden on the Examiner if restriction is not required. Applicants' reply satisfies the requirement that Applicants request, under 37 CFR § § 1.111(b) and 1.143, reconsideration of the requirement made by the Examiner 37 CFR § 1.181(c). On August 7, 2007, the Examiner issued a Final Office Action in which the restriction requirement was made final.

Applicants' petition alleges that the election requirement is improper and that a prima facie case has not been established in accordance with the requirements of MPEP § 803. The applicants argue that the election requirement is improper because the examiner has not met his burden to show that there would be a serious burden if restriction were not required.

With respect to applicants' allegation that the examiner failed to show that there would be a serious burden if restriction were not required, a review of the record indicates that while the election requirement of May 2, 2007 did not clearly set forth, as required by MPEP 808.02, in what way a serious burden would be placed upon the examiner if a restriction requirement were not made, the bar for such a showing in this instance is set even higher in that the originally presented claims had already been searched and given an examination on the merits. Accordingly, criteria (B) under MPEP § 803 has not been met as the examiner has not prima facie shown, by appropriate explanation, a serious burden.

In view of the findings noted above, the restriction requirement is vacated and withdrawn claims 9, 10, 12 and 14-18 are reinstated. It is further noted that an appeal brief was filed January 7, 2008. As an examination of all the claims has not been completed, the appeal is premature. Accordingly, the application will be returned to the examiner to withdraw the finality of the Office action of August 7, 2007 and reopen prosecution for consideration of claims 9, 10, 12 and 14-18.

SUMMARY: The Petition is GRANTED

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

Kathryn L Matecki

Kathy Matecki, Director
Patent Technology Center 3600
571-272-5250

KM/rr: 05/09/08

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APPLIED MATERIALS/BLAKELY
PATENT COUNSEL, LEGAL AFFAIRS DEPARTMENT
P. O. BOX 450A
SANTA CLARA, CA 95054

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Adam Baer, et al. :
Application No. 10/903,125 :
Filed: July 29, 2004 :
Attorney Docket No. 6317P121 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 23, 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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The 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 29, 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 Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 19, 2006 accompanies this decision on petition.

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 2192 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TAREK N. FAHMI
SONNENSCHEIN NATH & ROSENTHAL LLP
P. O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/903,125	07/29/2004	Adam Baer	6317P121

CONFIRMATION NO. 5018

45401
APPLIED MATERIALS/BLAKELY
PATENT COUNSEL, LEGAL AFFAIRS DEPARTMENT
P. O. BOX 450A
SANTA CLARA, CA 95054

Date Mailed: 07/07/2006

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 10/19/2006.

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".

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JOHN R. ROSS
TREY ENTERPRISES
10455 PACIFIC CENTER CT
SAN DIEGO, CA 92121

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JUN 06 2007

OFFICE OF PETITIONS

In re Application of
John A. Lovberg, et al.
Application No. 10/903,129
Filed: July 30, 2004
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 23, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 4, 2007. On January 23, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Tan-Jen Chen	: DECISION ON REQUEST FOR
Patent Number	: 7615143	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/903,152	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	
Robert Disanto	
Application No. 10/903,159	DECISION ON PETITION
Filed: July 30, 2004	TO WITHDRAW
Attorney Docket No. DISA-0002-UT1	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed December 21, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Jagtiani & Guttag does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

There is an outstanding Office action mailed September 21, 2006, which requires a reply by the applicant.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT DISANTO
15169 CORTONA WAY
NAPLES, FL 34120

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963 TRAIL TERRACE DRIVE
NAPLES FL 34103

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MAY 08 2008

In re Application of	:	
Robert Disanto	:	
Application No. 10/903,159	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 07-7016	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the non-final Office action mailed September 21, 2006, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 22, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Legal Administration for consideration of the petition regarding Contest of Ownership of Patent Application filed November 26, 2007.

Anthony Knight
Supervisor
Office of Petitions

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Edward M. Livingston, PA
963 Trail Terrace Drive
Naples, Fl 34103

COPY MAILED

AUG 21 2008

Inventor: Robert DiSanto
Application No. 10/903,159
Filed: July 30, 2004

: **DECISION ON**
: **CONFLICTING § 3.73(b)'s**
:

The instant application has been forwarded to the Office of Patent Legal Administration, pursuant to MPEP 324 (IX) for a decision on conflicting § 3.73(b) statements. This is a decision on who may control prosecution (and appoint a power of attorney and set forth the correspondence address to which the Office will sent its communications) in the instant application. The sole inventor has sequentially executed two assignments to different assignees, both of whom seek to control prosecution of the instant application.

The Decision results in retention of the current power of attorney by practitioners associated with customer 39820.

No further revocations of power of attorney will be permitted by assignee Greco/Anderson based on the § 3.71 statements (information) currently of record.

History of Power of Attorney

The instant application was filed on July 30, 2004 with a executed § 1.63 declaration naming Robert DiSanto as the sole inventor. Concomitantly submitted was a Power of Attorney and Correspondence Address Indication Form where the sole inventor provided a power of attorney to Sheldon H. Parker.

Change of addresses for customer number 62152, for Mr. Parker, were submitted on June 9, and November 3, of 2006.

A Request For Withdrawal as Attorney or Agent and Change of Correspondence Address was submitted on December 21, 2006 for the practitioners associated with customer number 22506 (correspondence address was to Jagtiani + Guttag), which was Not Approved on April 10, 2007.

On June 15, 2007 a revocation of power of attorney, new power of attorney, and change of correspondence address (in favor of Edward M. Livingston, PA) were submitted by facsimile transmission, signed by the sole inventor DiSanto for practitioners associated with customer number 39820. [1]

[1] Additional copies of the paper were submitted on June 18, June 27, and July 2, 2007.

On July 5, 2007, based on the June 15, 2006 paper, the Office mailed a Notice to the Parker Intellectual Property Law Office that power of attorney had been revoked, and a Notice to Edward M. Livingston, PA that power of attorney had been accepted.

On October 4, 2007 Stephen Parker submitted two papers, each paper including a revocation of power of attorney, new power of attorney, and change in correspondence address, in favor of practitioners associated with customer number 66458 (listing Sheldon and Stephen Parker). One paper was signed by Mr. Greco as an Assignee of Record and the second paper was signed by Mr. Anderson as an Assignee of Record. The papers were supported by two § 3.73(b) statements, one signed by Greco, and one signed by Anderson.

The Office on October 18, 2007, based on the October 4, 2007 papers, mailed a Notice to Watchstone P + D PLC, (the correspondence address of Stephen Parker), accepting the new power of attorney of October 4, 2007, and a Notice to Livingston, PA revoking the power of attorney.

On November 5, 2007 the instant paper entitled "CONTEST OF OWNERSHIP OF PATENT APPLICATION BASED ON CONFLICTING 37 CFR 3.73(b) STATEMENTS was filed by practitioner Livingston. The Contest seeks reinstatement of power of attorney and a change in correspondence address. The contest is supported by:

- an assignment by the inventor to Stone Tome Music (executed 6/18/07), Exhibit A,
- an assignment by the inventor to Greco and Anderson (executed 11/8/05), Exhibit B,
- a notice of recordation of the assignment by the sole inventor in favor of Stone Tone Music, Inc., Exhibit C,
- a revocation of power of attorney, and new power of attorney in favor of practitioners associated with customer number 39820, and a change in correspondence address (in favor of Edward M. Livingston, PA, signed by DiSanto as the President of Stone Tone Music, Inc., Exhibit D,
- a statement under § 3.73(b) signed by DiSanto as the President of Stone Tone Music, Inc., also Exhibit D,
- an affidavit by DiSanto, Exhibit E,
- a copy of an e-mail from Mr. Parker (containing a banner from Jagtiani + Guttag), Exhibit F, and
- an affidavit of counsel Flood, Exhibit G.[2]

On November 20, 2007, based on the November 5, 2007 paper, the Office mailed a Notice to Watchstone P+D, PLC (customer number 66458) advising that power of attorney had been revoked. The Office concomitantly mailed a Notice to Edward M. Livingston, PA (customer number 39820) advising that power of attorney had been accepted.

Power of attorney is currently with practitioners associated with customer number 39820 with a correspondence address to Edward M. Livingston, PA.

[2] On November 26, 2007 a copy of the November 5, 2007 Contest was submitted.

Status of Application

A Notice of Abandonment was mailed by the Office on April 25, 2007 noting that the application was abandoned as no reply was received to an Office letter of September 21, 2006.

A petition to revive was submitted on September 11, 2007 by practitioner Livingston and granted in a Decision of May 8, 2008.

Decision on Ownership

The November 5, 2007 Contest of Ownership paper seeks to have the Office determine the proper assignee of the instant application to be Stone Tone Music in the face of conflicting assignments executed by the sole inventor to Stone Music, Inc., and also to Greco and Anderson. Two grounds are put forth to support Stone Tone Music as the proper assignee:

1. The assignment to Greco and Anderson is unenforceable for lack of valid consideration, and
2. The assignment to Greco and Anderson is unenforceable due to fraud in the inducement.

The Office simply acts in a ministerial capacity in recording the assignments to Stone Music, Inc., and to Greco and Anderson that had been submitted for recordation against the instant application. See 35 U.S.C. § 261 and 37 CFR 3.11. Therefore, the recording of the assignments pursuant to § 3.11 was not a determination by the Office of the validity of the assignments per se or the effect that an assignment has on title to the instant application. What is sought in essence is to have the Office make a determination of ownership from the proffered documents and arguments, and settle any dispute as to the title of the application. The Office is not an expert in state contract law. Accordingly, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning ownership (title) of an application, and the Office will not permit itself to become embroiled in such ownership disputes. Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico, v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title as a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W.2d 400, 33 USPQ2d 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900). In fact, the Office has no authority to decide ownership issues. See Cedars-Sinai Medical Center V. Watkins, 11 F.3d. 1573, 1581 n. 10, 29 USPQ2d 1188, 1194 n. 10 (Fed. Cir. 1993), cert denied, 114 S. Ct. (1994).

Decision on Conflicting § 3.73(b) Statements

While the Office cannot determine the actual ownership of the instant application, the Office will determine who may have power of attorney as an ancillary matter to its obligation to conduct prosecution of the application. As set forth in MPEP 324 (IX):

> Where there are two or more conflicting 37 CFR 3.73(b) statements in an application ... the statement with the latest date of submission to the Office will normally control as to establishment of the assignee. If, however, the ownership established as controlling is contested on the record by another party who has submitted a conflicting 37 CFR statement, then the application ... shall be forwarded by the Office official in charge of the application ... to the Office of Patent Legal Administration for resolution of the ownership question. Generally, where there are two or more conflicting 37 CFR 3.73(b) statements in an application, **the ownership entity that filed that application** will be permitted to conduct the prosecution, and the other party that submitted a 37 CFR 3.73(b) statement to establish its ownership may wish to consider filing an application under 37 CFR 1.47. (emphasis added).

The instant application was filed with the sole inventor, DiSanto, providing a power of attorney to practitioner Parker associated with customer number 66458. Power of attorney was not established via an assignee. Therefore, the ownership entity filing the instant application was the sole inventor DiSanto on whose behalf practitioner Parker was acting. Accordingly, the sole inventor, currently acting as an Official of one of two conflicting assignees attempting to control prosecution, Stone Tone Music, will be allowed to accord power of attorney on behalf of the practitioners associated with customer number 39820, which practitioners currently have power of attorney of record based on the last submitted power on November 5, 2007.

Processing

The instant Decision (after mailing in paper form) will be forwarded to the examiner for: (1) entry of the mailed Decision into the electronic file record, and (2) a decision on the amendment submitted with the September 11, 2007 Petition for Revival.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
(571) 272- 7707

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Christopher Jensen Read	: DECISION ON REQUEST FOR
Patent Number	: 7643503	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,171	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2100

Anne Davis Barry
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of: Gower, et al.
Application No. 10/903,178
Filed: 30 July 2004
For: SYSTEM, METHOD AND STORAGE MEDIUM FOR PROVIDING A SERIALIZED MEMORY INTERFACE WITH A BUS REPEATER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 6 December 2004 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to section (b) above, the petition filed 6 December 2004 fails to provide that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. In a telephone call with applicant's attorney, Anne Davis Barry (Reg. No. 47,408) on 23 May 2004, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

The petition is **GRANTED.** 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.

Vincent Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security
571-272-3613

GO

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ANNE DAVIS BARRY
CANTOR COLBURN LLP
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BLOOMFIELD, CT 06002

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FEB 15 2006

TECHNOLOGY CENTER 2100

In re Application of: DELL, et al.
Application No. 10/903,182
Filed: July 30, 2004
For: SYSTEM, METHOD AND STORAGE MEDIUM FOR PROVIDING A BUS SPEED MULTIPLIER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on December 8, 2004.

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.

With respect to section (b) above, the petition filed December 8, 2004 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in telephone communications with applicant's attorney, Anne D. Barry (Reg. No. 47,408) on February 14, 2006, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed December 8, 2004 and the oral agreement on February 14, 2006 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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TECHNOLOGY CENTER 2100

In re Application of: DELL, et al.
Application No. 10/903,188
Filed: July 30, 2004
For: SYSTEM, METHOD AND STORAGE MEDIUM FOR PROVIDING SEGMENT LEVEL SPARING

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on December 10, 2004.

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.

With respect to section (b) above, the petition filed December 10, 2004 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in telephone communications with applicant's attorney, Anne D. Barry (Reg. No. 47,408) on February 14, 2006, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed December 10, 2004 and the oral agreement on February 14, 2006 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
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BOSTON MA 02109

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In re Application of	:
Tibor Keler, et al.	: DECISION ACCORDING STATUS
Application No. 10/903,191	: UNDER 37 CFR 1.47(a)
Filed: July 30, 2004	:
For: ANTIBODY VACCINE	:
CONJUGATES AND USES THEREFOR	:

This is a decision in response to the "Petition Pursuant to 37 CFR 1.47(a)," filed April 25, 2005 to allow the other inventor(s) to proceed with the application on behalf of themselves and the non-signing joint inventor.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application. A declaration executed in combination by all of the available joint inventors on behalf of themselves and the non-signing joint inventor, Michael Endres, accompanies this petition.

The declaration and petition have been reviewed and found in compliance with 37 CFR 1.47(a). Accordingly, 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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 1616 for appropriate action, including notifying applicant of the new status of this application.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitioner Examiner
Office of Petitions

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MR. MICHAEL ENDRES
7090 SANDPIPER CT.
PAINESVILLE, OH 44077

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In re Application of
Tibor Keler, et al.
Application No. 10/903,191
Filed: July 30, 2004
For: ANTIBODY VACCINE CONJUGATES AND USES THEREFOR

LETTER

Dear Mr. Endres:

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) 272-3204. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

cc: LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

ON PETITION

In re Application of
David Baldwin
Application No. 10/903,193
Filed: July 30, 2004
Attorney Docket No. TD-192

This is a decision on

(1) the petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application;

(2) the petition under the unavoidable provisions of 37 CFR 1.137(a) to revive the above-identified application; and

(3) the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

These three petitions were filed concurrently on July 9, 2007,

The petition under 37 C.F.R. 1.181 is **DISMISSED**, the petition to revive under 37 C.F.R. 1.137(a) is **DISMISSED**, and the petition to revive under 37 C.F.R. 1.137(b) is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 29, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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 non-compliant amendment was filed February 27, 2007. Another amendment was filed April 30, 2007, which was outside the shortened statutory period for response of three (3) months. Although this amendment authorized the charging of Deposit Account No. 07-2320 for the required extension of time under 37 CFR 1.136(a), Deposit Account No. 07-2320 did not have sufficient funds to pay the fee. A Notice Requiring Extension of Time Fee was mailed May 8,

2007, but did not set a new time period for reply to the final Office action. Accordingly, the date of abandonment of this application is March 1, 2007.

Withdraw the Holding of Abandonment

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."

Petitioner asserts that the Notice Requiring Extension of Time Fee, mailed May 8, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. In this regard, there is no indication that a search was conducted of practitioner's full records on the present application, including any file jacket or the equivalent. A statement is required that such an extensive search was performed. *See* MPEP § 711.03(c), I, A. Petitioner acknowledges this in the second paragraph under the heading "Request for Withdrawal of Holding of Abandonment" in the remarks, but does not make such a statement.

Furthermore, Petitioner does state that the Notice was not received and provides a copy of the docket report for the current case where the nonreceived Notice would have been entered had it been received, which is helpful. However, this alone is not sufficient. The showing required must include a statement from the practitioner describing the docketing system and indicating that the docketing system is sufficiently reliable. *See* MPEP § 711.03(c), I, A. The petition does not describe the docketing system or establish its reliability.

Accordingly, absent the required evidence to establish nonreceipt of the Notice Requiring Extension of Time Fee, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

Revive, Unavoidable Delay

In regard to the "unavoidable" standard applied by the U.S Patent and Trademark Office, petitioner should note that decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Although the agency of mail was relied upon in this instance, the evidence of record fails to establish that the mail was the source of the lack of timely reply to the final Office action. As noted above in regard to the petition to withdraw the holding of abandonment, a review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. The evidence of record does not indicate that a complete search of petitioner's files related to this application was conducted, which would address the possibility that the Notice was received by practitioner's office but was misplaced. The record also does not describe the docketing system or establish its reliability, which would address the possibility that the Notice was received but not properly docketed.

Also, the petition does not explain why the required funds where not available for the extension of time when the April 30, 2007 amendment was filed. There is no evidence of record to address why Deposit Account No. 07-2320 was not provided with the funds necessary to extend the time needed for reply to the final Office action, which would have prevented the abandonment of the application.

As is well established, 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). Here, since the evidence of record is insufficient to establish that the delay was unavoidable, the petition requesting the revival of the application due to unavoidable delay cannot be granted at this time.

Revive, Unintentional Delay

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 present petition lacks item (2).

Since the revival of the application under 37 CFR 1.137(a) and 137(b) was considered, a petition fee is required for both petitions. In particular, a fee of $500.00 is required for the petition under 37 CFR 1.137(a) and a fee of $1500.00 is required for the petition under 37 CFR 1.137(b). The petition fee of $500.00 under 37 CFR 1.137(a) was accepted from the check submitted with the instant petitions. Also, an additional $1,000.00 was accepted from the check submitted with the instant petitions for the fee due under 37 CFR 1.137(b). However, the required fee for a petition under 37 CFR 1.137(b) is $1,500.00. Although authorization is given to charge Deposit Account Number 07-2320 for any fee necessary for consideration of the petitions, the Deposit Account does not have sufficient funds to pay the remaining $500.00 for the petition under 37 CFR 1.137(b). Since the required fee for the petition under 37 CFR 1.137(b) is deficient by $500.00, the petition under 37 CFR 1.137(b) cannot be granted.

In regard to the statement of unintentional delay, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to Technology Center AU 2628 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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Creative/3Dlabs/Groover
P.O. BOX 802889
DALLAS TX 75380

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
David Baldwin	:	
Application No. 10/903,193	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. TD-192	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 29, 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 March 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a an amendment that *prima facie* places the application in condition for allowance, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

Also, the terminal disclaimer filed July 9, 2007 is not approved. The file history does not indicate that Patrick C. R. Holmes, who signed the terminal disclaimer, is an attorney of record in the present application. Rather, he signed in a representative capacity, which is not proper for a terminal disclaimer. See 37 CFR 1.321(b) and MPEP 402. However, since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required for the granting of this petition.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to Technology Center AU 2628 for appropriate action by the Examiner in the normal course of business on the reply received

Christopher Bottorff
Petitions Examiner
Office of Petitions

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MAY 25 2010

OFFICE OF PETITIONS

ALLEGHENY TECHNOLOGIES
1000 SIX PPG PLACE
PITTSBURGH, PA 15222

In re Application of	:	
Edward C. WOLFF, et *al.*	:	
Application No. 10/903,198	:	DECISION ON PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **TMP-2047**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed November 13, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 14, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Supplemental Appeal Brief, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3726 for appropriate action by the Examiner in the normal course of business on the reply received April 5, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **BRIAN T. GEISLER**
K&L GATES CENTER
210 SIXTH AVENUE
PITTSBURGH, PA 15222

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 26 2008

TO SPE OF : ART UNIT 2800 2186

SUBJECT : Request for Certificate of Correction for Appl. No 10/903200 patent no7281116

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: _____

/Matt Kim/ 2186

SPE **Art Unit**

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J. PRESTON OXENHAM, P.C.
3515 SOUTH TAMARAC DRIVE
SUITE 200
DENVER CO 80237

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SEP 2 3 2008

OFFICE OF PETITIONS

In re Application of:
Patterson
Application No.: 10/903,204
Filed: July 30, 2004
Attorney Docket No.: N/A
For: REVERSIBLE RESISTANCE ASSEMBLY FOR HYDRAULIC EXERCISE APPARATUS

ON PETITION

This is a decision on the petition, filed July 16, 2008 (certificate of mailing date July 14, 2008), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 30, 2007 non-final Office action. No timely response being received and no timely extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 31, 2008. A Notice of Abandonment was mailed on June 2, 2008.

Applicant has submitted an amendment in reply to the October 30, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 30, 2007 non-final Office action, and the $770.00 petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $525.00 three month extension of time submitted on May 6, 2008 was submitted subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be refunded via a Treasury check that will be scheduled shortly.

After the mailing of this decision, the application will be returned to Technology Center AU 3764 for consideration of the amendment filed on May 6, 2008.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Valerio Del Duca :
Application No. 10/903,230 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. CM-2293MC :

This is a decision in response to the petition, filed May 14, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed August 9, 2006. A Notice of Abandonment was mailed on May 11, 2007. In response, on May 14, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Terminal Disclaimer; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1751 for appropriate action by the Examiner in the normal course of business on the reply received May 14, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Valerio Del Duca	: DECISION ON REQUEST FOR
Patent Number	: 7615524	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,230	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **979** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Keith R. Derrington
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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AUG 20 2008

In re Application of	:	
Michael I. Jones.	:	
Application No. 10/903,241	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. TA-00613	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 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 June 22, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 22, 2007. Accordingly, the date of abandonment of this application is June 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 060705

JUN 28 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of:	:	
Bousse *et al.*	:	
Serial No.: 10/903,248	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 29, 2004	:	FROM RECORD
Attorney Docket No.: **021424-002500US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 18, 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 Mark D. Barrish, 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 Peter Eng, 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: U.P. Peter Eng (Wilson Sonsini Goodrich Rosati)
650 Page Mill Road
Palo Alto, CA 94304-1050

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BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET, SUITE 301
MANCHESTER, NH 03104

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Harry Thomas Jensen	:	
Application No. 10/903,253	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. BOLT-001XX	:	

This is a decision on the petition filed January 26, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed September 11, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 12, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Dechert LLP
P.O. Box 390460
Mountain View, CA 94039-0460

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Rajinder Singh et al.	:	
Application No. 10/903,263	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. 375462-014US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Dechert LLP has been revoked by the assignee of the patent application on April 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rigel Pharmaceuticals Inc.**
c/o Foley & Lardner LLP
1530 Page Mill Road
Palo Alto, CA 94304

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Rigel Pharmaceuticals, Inc.
c/o Foley & Lardner LLP
975 Page Mill Road
Palo Alto, CA 94304

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajinder Singh, et al.	:	
Application No. 10/903,263	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. 064311-1703	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 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 Gerald F. Swiss 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 correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rigel Pharmaceuticals, Inc.**
1180 Veterans Boulevard
San Francisco, CA 94080

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/903,263	07/30/2004	Rajinder Singh	064311-1703

CONFIRMATION NO. 2582

POWER OF ATTORNEY NOTICE

69588
RIGEL PHARMACEUTICALS INC.
C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC000000036584548

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2009.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

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OFFICE OF PETITIONS

In re Application of	:	
John D. McGee et al.	:	
Application No. 10/903,265	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. H50079 (155*406)	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 21, 2007, to change the name of inventor "Danielle Poleski" to – Danielle Kapp --. The petition indicated a middle initial "A" for both the original and corrected name. Neither the original Application Data sheet filed July 30, 2004 or the corrected Application Data Sheet filed with the instant petition indicates a middle name or middle initial for this co-inventor. Further the co-inventor is listed as Danielle Poleski in the declaration filed July 30, 2004, without any middle initial. Therefore the middle initial "A" is not included in the corrected form of the co-inventor's name.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/903,265	07/30/2004	1712	2560	H50079 (155*406)	40	3

CONFIRMATION NO. 4042

CORRECTED FILING RECEIPT

23416
CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

OC000000027980910

Date Mailed: 01/29/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John D. McGee, Troy, MI;
Brian D. Bammel, Rochester Hills, MI;
Danielle Kapp, Oak Park, MI;

Assignment For Published Patent Application

Henkel Corporation, Dusseldorf, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 23416

Domestic Priority data as claimed by applicant

This application is a CIP of 10/620,087 07/14/2003 PAT 7,138,444

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/903,265**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COATINGS WITH ENHANCED WATER-BARRIER AND ANTI-CORROSIVE PROPERTIES

Preliminary Class

523

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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WILLIAM S. FROMMER, ESQ.
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of	:
Pelly, Taylor, Tapson, Hooper and	:
Alves-Moreira	: DECISION REFUSING STATUS
Application No. 10/903,266	: UNDER 37 CFR 1.47(a)
Filed: 30 July, 2004	:
Attorney Docket No. 450110-05216	:

This is in response to the petition under 37 CFR 1.47(a), filed on 5 November, 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 30 July, 2004, without an executed oath or declaration. Accordingly, on 1 October, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 5 November, 2004, petitioners filed, *inter alia*, the instant petition under 37 CFR 1.47(a), the required petition fee and surcharge for late filing, and a declaration naming Jason Charles Pelly, Andrew Robert Taylor, Daniel Warren Tapson, Daniel Luke Hooper, and Emmanuel Alves-Moriera as joint inventors and signed by all joint inventors except Alves-Moriera on behalf of themselves and joint inventor Alves-Moriera.

Petitioners assert that the non-signing joint inventor cannot be found or reached to sign the Declaration. Specifically, petitioners assert, via the declaration of Carol Faith, that a copy of the application was sent to non-signing joint inventor Alves-Moriera at his last known address, but was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

With regard to item (1), in the event that the application papers are returned as undeliverable, petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if any inventor no longer lives at the last known address, petitioners may show diligent efforts by use of a national registry or other database to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Petitioners must provide a copy of the envelope returned as undeliverable by the Royal Mail. Additionally, petitioners should provide details the efforts taken to determine a more recent address for the non-signing inventor.

If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

With regard to item (2), the declaration is defective in that petitioners have essentially provided two separate declarations: one naming Pelly, Taylor, and Tapson as the first, second, and third joint inventors, respectively, and a second declaration naming Hooper as the first inventor and non-signing joint inventor Alves-Moriera as the second joint inventor.

Petitioners must provide an oath or declaration in compliance with 37 CFR 1.63 and 1.67, naming the proper inventive entity, signed by all of the signing inventors on behalf of themselves and the non-signing inventor.

Furthermore, as the declaration as submitted lists both Pelly and Hooper as the first inventor, and both Taylor and Alves-Moreira as the second inventor, any renewed petition should clearly state the desired order of inventorship.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WILLIAM S. FROMMER, ESQ.
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745 FIFTH AVENUE
NEW YORK NY 10151

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APR 26 2005

OFFICE OF PETITIONS

In re Application of	:
Pelly, Taylor, Tapson, Hooper,	: DECISION NOTING JOINDER OF
and Alves-Moriera	: INVENTOR AND PETITION
Application No. 10/903,266	: UNDER 37 CFR 1.47(a) MOOT
Filed: 30 July, 2004	:
Atty Dckt No. 450110-05216	:

Papers filed on 21 March, 2005, in response to the decision dismissing petition mailed on 30 November, 2004, included a two (2) month extension of time and a Declaration signed by the previously non-signing inventor, Emmanuel Alves-Moriera, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/23/06

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/903271 Patent No.: 6981889

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**.

HENRY RANDALL
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: _____

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Paula Bradley
SPE

2833
Art Unit

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J C PATENTS, INC.
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IRVINE CA 92618

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MAY 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Keng-Shui Wu	:	
Application No. 10/903,285	:	DECISION ON PETITION
Filed: 08-02-2004	:	
Title: Screw head slot shaper	:	

This is a decision on the petition under 37 CFR 1.181, filed December 27, 2006, and resubmitted on February 15, 2007, to withdraw the holding of abandonment.

On April 4, 2006, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on July 5, 2006. A Notice of Abandonment was mailed November 2, 2006.

In the petition, petitioners asserted that they did not receive the final Office Action because the USPTO mailed the final Office action to an incorrect correspondence address. Additionally, petitioners stated that on January 9, 2006, they submitted a Declaration and Power of Attorney to appoint practitioners at Customer Number 23900 to prosecute the application and a Request for Change of Correspondence Address to the address associated with that Customer Number. Petitioners requested that the Office withdraw the holding of abandonment, re-mail the final Office Action, and restart the period for reply.

A review of the record indicates that petitioners submitted a change of correspondence address with the USPTO on January 9, 2006; however, it was not entered. Consequently, the final Office action was mailed to an incorrect address and was returned to USPTO. The record supports petitioners' assertion of non-receipt of the final Office Action of April 4, 2006.

The Office has corrected the correspondence address to the address associated with Customer Number 23900 and made it of record. The petition under 37 CFR 1.181 is **granted**.

Technology Center Art Unit 3725 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office action. The three (3) month shortened statutory time period for responding to the final Office action will be set to run from the mailing date of the new final Office action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Directors Office
Group 3700

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of
CHUNG, CHANG-JIN
Appl. No.: 10/903,297
Filed: July 30, 2004
For: METHOD OF MANAGING HEALTH AND SYSTEM FOR PERFORMING THE SAME
Attorney Docket Number: 61745 (71970)

DECISION DISMISSING PETITION
37 CFR 1.181

This is a decision on petitioner's request filed July 8, 2005, requesting to restart the period for response. Petitioner alleges non-receipt of the Office communication mailed on February 8, 2005 based on the Office mailing the communication to the wrong address. The petition is considered pursuant to 37 CFR 1.181, and no fee is required for this petition.

The petition is dismissed.

A review of the record indicates that the originally filed application had two addresses identified as correspondence addresses. MPEP 403 states, in part:

"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 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."

In the instant case, the Office made the determination that the correspondence address listed in the declaration would be the correspondence address. The Office communication was mailed to the proper correspondence address of record on February 8, 2005. Applicant filed a subsequent change of address on August 15, 2005 changing the address of record to the address listed on the transmittal letter. Therefore, the non-receipt of the Office correspondence mailed on February 8, 2005 was due to applicant not timely filing a change of address.

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, 37 CFR 1.181(f). No extensions of time under 37 CFR 1.136(a) are permitted. Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137.

Richard A. Bertsch, Director
Technology Center 3700

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.

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JUL 20 2006

Christine C. O'Day
EDWARDS ANGELL PALMER DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of CHUNG, CHANG-JIN Serial No.: 10/903,297 Filed: July 30, 2004 Docket: 61745 (71970) Title: METHOD OF MANAGING HEALTH AND SYSTEM FOR PERFORMING THE SAME	DECISION ON RENEWED PETITION 37 CFR 1.181

This is a decision on petitioner's request filed December 5, 2005, requesting reconsideration of the November 8, 2005 dismissal of a previous petition to reset the period for response. Petitioner alleges the original application contained an alternate address which the PTO should have used, and that the PTO should have investigated the returned PTO correspondence marked "mail returned as undelivered." The renewed petition is considered pursuant to 37 CFR 1. 181, and no fee is required for this petition.

The petition to reset the period of response is GRANTED.

A review of the record indicates that the originally filed application had two addresses identified as correspondence addresses. One address was supplied in the declaration, and the other address was supplied in the specification coversheet, transmittal letter, and a miscellaneous letter. Subsequent correspondence was sent to the address supplied in the declaration and the mail was returned as undelivered. The application was filed on July 30, 2004, the Official Filing Receipt was "returned as undelivered" on November 1, 2004, and the Office Action was mailed on February 8, 2005. During all these actions the Eighth Edition, Second Revision MPEP (Revised May, 2004), *available at* http://www.uspto.gov/web/offices/pac/mpep/indexold.htm, *hereinafter* "MPEP E8R2", was in effect. The MPEP E8R2 § 701.13 states, in part:

"Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the ***correct address*** and forward the action again, after stamping it 'remailed' with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. . . .If the Office is not finally successful in delivering the letter, it is placed, with the envelope, in the file wrapper. For an Image File Wrapper (IFW), a copy of the letter, and a copy

of the envelope should be added to the IFW (see IFW Manual). If the period dating from the remailing elapses with no communication from applicant, the application is abandoned." (*Emphasis added*).

The Official Filing Receipt and Office Action were returned as undelivered. Consequently, the analysis as to whether a remailing should have occurred hinges on what the "correct address" should have been. To determine the correct correspondence address, MPEP E8R2 § 403 states, in part:

"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 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."

In the instant case, applicant provided two conflicting addresses in the original July 30, 2004 filing. Although the Office generally had the discretion to choose which address was the correct correspondence address amongst the documents themselves, MPEP E8R2 also states preference in favor of the address of the Customer Number. MPEP E8R2 § 403 states in part:

"As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be ***resolved in favor of the address of the Customer Number***." (*Emphasis added*).

Based on MPEP E8R2 § 403, it was improper for the Office to choose the address listed in the declaration over the other address supplied in the specification coversheet, transmittal letter, and miscellaneous letter the latter address was supplied in conjunction with a Customer Number.

Accordingly, the petition to reset the period for response has been granted. A copy of the Office Action of February 8, 2005 is being remailed concurrently with this decision with a reset statutory period beginning with the mailing date of this decision.

Any inquiry regarding this decision should be directed to Allan Shoap, Special Program Examiner, at (571) 272-4514.

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of
Michael Miller
Application No. 10/903,305
Filed: 07-28-2004
Attorney Docket No. 65937-0049

: 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 December 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The Office notes that the amendment submitted with the present petition contains a reference to an incorrect nonprovisional application, No. 10/848,878, instead of the correct nonprovisional application, No. 10/848,278, filed May 18, 2004. Furthermore, the reference to add prior-filed provisional application, No. 60/490,916, in the first sentence of the specification on page one following the title is not acceptable as drafted because it improperly incorporates by reference

the prior-filed provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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39533 WOODWARD AVENUE SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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APR 12 2007

OFFICE OF PETITIONS

In re Application of	:
Michael Miller	:
Application No. 10/903,305	: DECISION ON PETITION
Filed: 07-28-2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 65937-0049	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 3, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The Office notes that 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; however, the statement is being construed as the statement required by 37 CFR 1.78(a)(3). If

this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office. 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 applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3736 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/903,305	07/28/2004	3736	1114	65937-0049	28	2

CONFIRMATION NO. 4796

CORRECTED FILING RECEIPT

OC000000023344287

10291
RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

Date Mailed: 04/12/2007

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)

Michael E. Miller, Trafalgar, IN;

Power of Attorney: The patent practitioners associated with Customer Number **10291**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/490,916 07/29/2003
and is a CIP of 10/848,278 05/18/2004
which is a DIV of 09/707,022 11/06/2000 PAT 6,758,824

Foreign Applications

If Required, Foreign Filing License Granted: 10/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/903,305

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Biopsy apparatus

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JUN 2 2005

Ray Regan, Esq.
LAW OFFICES OF RAY R. REGAN, P.A.
P.O. Box 1442
Corrales, NM 87048

In re application of John Stuart Greeson Application No. 10/903,318 Filed: July 30, 2004 For: AUTOMATED CARRIER-BASED PEST CONTROL SYSTEM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R §1.102(d) filed May 13, 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(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 13, 2005 lacks requirement 2(C) above. In this regard, petitioner states, "Applicant has caused to be made a careful and thorough search of prior art, and has good knowledge of the pertinent art." However, the application file has been reviewed, and no copies provided by applicant, of the most closely related prior art, have been located. In view of this deficiency, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/25/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK NY 10022-6030

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In re Application of	:	
Contantino	:	
Application No. 10/903,323	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. PDC019-NP	:	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 1, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, " the attached copy of written instructions from an officer of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal, Esq.
Brown, Rudnick, Berlack, Israels, LLP
Seven Times Square
New York, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 400
5353 N FEDERAL HIGHWAY
FORT LAUDERDALE, FL 33308

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OFFICE OF PETITIONS

In re Application of	:	
Paul J. Weber	:	
Application No. 10/903,325	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of John P. Wooldridge appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Wooldridge desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 fails to satisfy item (1) above since the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).

In this regard, it is initially pointed out that the reference must be submitted during the pendency of the later-filed application. For example, it is noted that Application Nos. 09/475,635, 09/478,172 and 09/588,436 each issued before the present application was filed. Therefore, these applications would be more appropriately considered continuations-in-part of 09/749,497, rather than the present application as the amendment suggests.

Secondly, the amendment submitted with the petition references some of the prior-filed applications by the patent number rather than by the application number. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed **application** is submitted at such time during the pendency of the application as required by the Director. [Emphasis supplied.]

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), 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. [Emphasis supplied.]

Next, 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.

Finally, the reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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By hand: Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

cc: JOHN P WOOLDRIDGE ESQ
1334 RIDGESTONE CT
LIVERMORE, CA 94551

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OFFICE OF PETITIONS

JOHN P WOOLDRIDGE ESQ
114 HONUEA PLACE
KIHEI, HI 96753

In re Application of
Paul J. Weber
Application No. 10/903,325
Filed: July 30, 2004
Attorney Docket No. PJW1

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Again, the petition fails to satisfy item (1) above since the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).

In this regard, the reference must be submitted during the pendency of the later-filed application. In reviewing the chain of applications to which applicant is seeking a claim for priority, it is noted that this application improperly directly claims benefit of priority to Application Nos. 09/475,635, 09/478,172, 09/588,436, 09/085,948, and 10/037,053, since these applications issued prior to the filing date of the present application. Petitioner is advised that every intermediate application must properly make a reference to the first (earliest) application and every application after the first application and before such intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. The following is a suggested format for claiming benefit of priority to the prior applications:

> This application is a continuation-in-part of Application No. 09/749,497, filed December 22, 2000, now Patent No. 6,974,450, incorporated by reference; which is

a continuation-in-part of Application No. 09/475,635, filed December 30, 1999, now Patent No. 6,440,121, incorporated by reference; and is a continuation-in-part of 09/478,172, filed January 5, 2000, now Patent No. 6,432,101, incorporated by reference; and is a continuation-in-part of Application No. 09/588,436, filed June 6, 2000, now Patent No. 6,391,023, incorporated by reference; which is a continuation-in-part of Application No. 09/085,948, filed May 28, 1998, now Patent No. 6,203,540.

Further, a claim for benefit of priority to Application No. 10/037,053 is improper since, not only did this application issue prior to the present application, it was also filed after all the other applications to which petitioner claims benefit of priority. Therefore, it would be improper for petitioner to claim benefit of priority to this application in this chain of applications.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) that corrects the deficiency is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Paul J. Weber :
Application No. 10/903,325 : DECISION ON PETITION
Filed: July 30, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 38743/3.1 US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **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) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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) 272-3204. 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 3739 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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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
10/903,325	07/30/2004	3739	1280	38743/3.1 US	86	10

CONFIRMATION NO. 4664

CORRECTED FILING RECEIPT

32642
STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

OC000000029795626

Date Mailed: 05/07/2008

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)

Paul Joseph Weber, Fort Lauderdale, FL;

Power of Attorney: The patent practitioners associated with Customer Number 32642

Domestic Priority data as claimed by applicant

This application is a CIP of 09/749,497 12/22/2000 PAT 6,974,450
which is a CIP of 09/475,635 12/30/1999 PAT 6,440,121
and is a CIP of 09/478,172 01/05/2000 PAT 6,432,101
and is a CIP of 09/588,436 06/06/2000 PAT 6,391,023
which is a CIP of 09/085,948 05/28/1998 PAT 6,203,540

Foreign Applications

If Required, Foreign Filing License Granted: 09/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/903,325**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Facial tissue strengthening and tightening device and methods

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Yifan Zhao, Michael Schneider,	:	
Dale Crombez	:	
Application No. 10/903,326	:	DECISION REFUSING
Filing Date: July 30, 2004	:	STATUS UNDER § 1.47(a)
Attorney Docket No. 81096728	:	

This is in response to the "PETITION UNDER 37 CFR 1.47 Filing When An Inventor Refuses To Sign Or Cannot Be Reached", filed December 3, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 30, 2004, without a fully executed oath or declaration. Accordingly, on

October 1, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring a oath or declaration with the signatures of inventors Zhao and Crombez, together with a surcharge for its late filing. In response, applicants filed the instant petition on December 3, 2004. Accompanying the petition was a declaration executed by Crombez, but with the signature block for Zhao left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to requirement (1), there has been no showing that non-signing inventor Zhao was presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that Zhao was forwarded a copy of "formal papers". Regarding this, the Manual of Patent Examining Procedure states:

> 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.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 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 U.S.P.Q. 80 Comm'r Pat. 1956).

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.[1]

---

[1] MPEP 409.03(d).

If the non-signing inventor can not be located, applicant must demonstrate diligent effort in finding the inventor. "[A]n affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[2] Documentary evidence, such as a certified mail return receipt or copies of an internet search, to support such a finding[3].

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[2] MPEP 409.03(d).

[3] Such documentary evidence should be made part of the affidavit or declaration. See id.

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OFFICE OF PETITIONS

In re Application of Yifan Zhao, Michael Schneider, Dale Crombez Application No. 10/903,326 Filing Date: July 30, 2004 Attorney Docket No. 81096728	: : : : : :	DECISION REFUSING STATUS UNDER § 1.47(a)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)", filed February 14, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 30, 2004, without a fully executed oath or declaration. Accordingly, on October 1, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring a oath or declaration with the signatures of inventors Zhao and Crombez, together with a surcharge for its late filing. In response, applicants filed the instant petition on December 3, 2004. Accompanying the petition was a declaration executed by Crombez, but with the signature block for Zhao left blank. The petition was dismissed in a decision mailed on December 17, 2004. No showing was made that Zhao was forwarded a copy of the application papers (specification, claims, drawings, oath or declaration).

With the instant petition, Rule 47 applicant has clarified that Zhao was forwarded a copy of the application papers via e-mail on October 30, 2004. As of the date of the request for reconsideration, no response from Zhao has been received.

On renewed petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor Yan at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner's deposit account was charged the $200 fee for the instant petition. However, as petitioner previously paid the petition fee on December 3, 2004, no fee is due for the request for reconsideration. Accordingly, $200 will be refunded to petitioner under separate cover.

The application file is being forwarded to Group Art Unit 3661 for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SUITE 500
SPOKANE WA 99201

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OCT 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Bennison, Stephen J.	:	
Application No. 10/903,332	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. BO1-0073US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 2, 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 response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 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

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APR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Philmore H. Colburn II
Cantor Colburn LLP
55 Griffin Road South
Bloomfield CT 06002

In re Application of: Dell, et al.
Application No. 10/903,366
Filed: July 30, 2004
For: SYSTEM, METHOD AND STORAGE MEDIUM FOR A MULTI-MODE MEMORY BUFFER DEVICE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 08 December 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

04/29/2005 DWYATT 00000013 090463 10903366
01 FC:1464 130.00 DA

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.

As to item (a), the petition fee of $130 has been charged to Deposit Account 09-0463, as authorized in the petition filed 08 December 2004.

The petition fails to adequately meet requirements (b) and (e) of the criteria set forth above. With respect to requirement (b), applicant has failed to make the statement that "Applicant will make an election without traverse as a prerequisite to the grant of special status if the Office determines that all the claims are not obviously directed to a single invention". With respect to item (e), there is no detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Thirty-five references are indicated as being "most closely related". The discussion of each of these references includes the title of the reference and then a brief description, e.g., a sentence or two, of the disclosure. However, for many of these references, this brief description does not appear to be related to the claimed invention and thus it fails to adequately distinguish the claimed invention from the references. For example, it is not clear whether Franaszek (4,486,739) discloses anything related to a buffer device, a packetized multi-transfer interface, a cascaded interconnect system, a bus converter, or a parallel memory interface bus. It is noted that the same thirty-five references and the same brief description for each of the thirty-five references are used in petitions to make special under 37 C.F.R. §1.102(d) and MPEP §708.02 (VIII) (Accelerated Examination) for three different applications. (The three applications include at least one common inventor.) Petitioner should note that the requirements of MPEP §708.02, Section VIII and 37 CFR § 1.56 ("Duty to disclose information material to patentability.") are different. While petitioner may feel obliged to disclose all thirty-five references in each of the three applications under 37 CFR 1.56, only the references deemed most closely related to the subject matter encompassed by the claims of the **instant application** should be discussed in detail under MPEP §708.02, Section VIII. Petitioner should determine which references are deemed most closely related to the instant application and tailor the discussion of these references to the subject matter claimed therein.

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

DECISION ON PETITION ROUTING SLIP TC 2100

Application No.: **10/903,366** Art Unit: **2183**

For Director's Secretary:

☐ Granted ☐ Denied ☑ Dismissed

- ☐ Decision to be reviewed and signed by Director
- ☑ Mail Decision & enter decision in Petition Database
- ☐ Enter Change of Address in PALM
- ☑ Enter Paper Nos. 12/08/04 and the decision in PALM
- ☑ Other Send to Scanning

For Tech Support Staff and/or LIE:

- ☐ Process and enter Paper Nos.
- ☑ Charge $130 fee to D.A. No. 09-0463
- ☐ Other Petition Code 1464
- ☐ Forward file to

Questions should be directed to:

SPRE No. 1	SPRE No. 2	SPRE No. 3	SPRE No. 4
Vincent N. Trans SPRE, TC-2100 RND - 1C83 (571) 272-3613	Pinchus M. Laufer SPRE, TC-2100 RND - 1C81 (571) 272-3599	Josie Ballato SPRE, TC-2100 RND - 1D85 (571) 272-3567	Brian L. Johnson SPRE, TC-2100 RND - 1D89 (571) 272-3595

Routing Slip Printed On: Thursday, April 14, 2005 12:02:28 PM

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2700 FIRST INDIANA PLAZA
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS, IN 46204

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Chris Humbert et al :
Application No. 10/903,372 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. 12391-0031 :

This is a decision on the petition under 37 CFR 1.173(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 24, 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 25, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1080 extension of time submitted with the petition on June 9, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 3400
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OFFICE OF PETITIONS

In re Application of
Merced-O'Neill
Application No. 10/903,417
Deposited: July 30, 2004
Attorney Docket No. 15768US01
For: MINIMALLY INVASIVE TISSUE RECOVERY

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed May 23, 2005, requesting that the above-identified application be accorded a filing date of July 30, 2004.

The application was deposited on July 30, 2004. On May 13, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on July 30, 2004 because no drawing was present, as is required by 35 U.S.C. 113. It is noted that the specification filed on July 30, 2004 referenced a number of drawing figures.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of July 30, 2004 on the basis that 12 pages of drawing figures were received in the Patent and Trademark Office (PTO) on July 30, 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 citing July 30, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 12 pages of drawings.

The return postcard constitutes *prima facie* evidence that 12 pages of drawings were filed on July 30, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, deposit account no.13-0017 will be credited the $400.00 petition fee submitted on May 23, 2005.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 30, 2004**, using the copy of the 12 pages of drawings submitted with the

instant petition. Office records will be corrected to show that 12 pages of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
William Burdet
Application No. 10/903,427
Filed: July 30, 2004
Attorney Docket No. AE97/151US

ON PETITION

This is a decision in response to the petition, filed July 25, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 16, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 17, 2007. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3634 for consideration of the amendment filed July 25, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Baisley, et al.	:	
Application No. 10/903,452	:	
Filed: 30 July, 2004	:	
Attorney Docket No. 13768.1050	:	

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 November, 2008, with reply due under absent an extension of time on or before 14 February, 2009.

The application went abandoned by operation of law after midnight 14 February, 2009.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay.

(The request and fee for extension of time filed after expiration of the statutory period of reply are not proper. The fee will be refunded. Should Petitioner later find that the fee has not been refunded, Petitioner should file a request with the Office of Finance and submit with it a copy of this decision.)

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]

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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).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

August 29, 2005

Keith Lutsch
Wong, Cabello, Lutsch,
Rutherford & Brucculeri
20333 SH 249, Suite 600
Houston, TX 77070

In re Application of:
Serial No: 10/903,471 On Petition
Filing Date: July 30, 2004
For: **MULTIFABRIC COMMUNICATION USING A BACKBONE FABRIC**

In response to the petition received on June 24, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 4, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned December 5, 2004. The notice of abandonment was mailed on June 13, 2005.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on December 28, 2004.

The application has been completed for release to Technology Center 2661.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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WWW.USPTO.GOV

Paper No.

NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA SC 29201

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of David H. McDaniel Application No. 10/903,483 Filed: August 2, 2004 Attorney Docket No.: 34604/09098 Title: SYSTEM AND METHOD FOR THE PHOTODYNAMIC TREATMENT OF BURNS, WOUNDS, AND RELATED SKIN DISORDERS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application, filed on August 31, 2009.

This petition is **GRANTED**.

The concurrently submitted Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address has been entered and made of record.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on November 21, 2008. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 22, 2009. A Notice of Abandonment was mailed on July 6, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office

action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(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*, the petition fee and the proper statement of unintentional delay. Moreover, Petitioner has indicated that a continuation application has been filed, and the continuation application claims priority to this application. Requirements (1) - (3) of Rule 1.137(b) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing Application No. 12/550,464.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/903,483	08/02/2004	David H. McDaniel	34604/09098

CONFIRMATION NO. 2544

POA ACCEPTANCE LETTER

27530
NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

OC000000037889674

Date Mailed: 09/22/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/pashanoski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/903,483	08/02/2004	David H. McDaniel	34604/09098

CONFIRMATION NO. 2544

POWER OF ATTORNEY NOTICE

OC000000037889672

Wayne C. Jaeschke, Jr.
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

Date Mailed: 09/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/pashanoski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/26/2010

Applicant	: Ramakrishna Vedantham	: DECISION ON REQUEST FOR
Patent Number	: 7590922	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/903,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA CA 90405

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OFFICE OF PETITIONS

In re Application of	:	
J. Joseph Armstrong, et al.	:	
Application No. 10/903,494	:	DECISION ON PETITION
Filed: July 29, 2004	:	
Attorney Docket No. KLAC00082	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2007. The Notice of Abandonment was mailed March 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, 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 2872 for appropriate action by the Examiner in the normal course of business on the reply received.

Chris Bottorff
Petitions Examiner
Office of Petitions

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

Mail Date: 04/21/2010

Applicant	: J. Joseph Armstrong	: DECISION ON REQUEST FOR
Patent Number	: 7672043	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,494	: OF WYETH
Filed	: 07/29/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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OFFICE OF PETITIONS

In re Patent No. 7,122,794	:	
Issue Date: October 17, 2006	:	
Application No. 10/903,497	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SION-P17-041	:	

This is a decision on the petition, filed August 31, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 29, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,122,794 on October 17, 2006. Therefore, no further action is required in this case.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

In re Application of :
Peramachanahalli Sachidananda Ramkumar :
Application No. 10/903,501 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. ITL.1155US (P19434)

This is a decision on the petition, filed May 21, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 30, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2193 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Chawan, Sheela

From: Newsome, Lamonte
Sent: Monday, May 18, 2009 4:19 PM
To: Chawan, Sheela
Subject: 10903520

Paper No.: _____

DATE : 5/18/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10903520 Patent No.: 7400763 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-756-1574

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: _____

SPE

VIKKRAM BALI
SPE - 2624

2624
Art Unit

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Paper No.

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JUN 3 0 2009

OFFICE OF PETITIONS

In re Patent No. 7,400,763	:	
Mark Hamburg	:	DECISION ON PETITIONS
Issue Date: July 15, 2008	:	under 37 CFR 1.183 and
Application No. 10/903,520	:	ON REQUEST FOR
Filed: July 30, 2004	:	RECONSIDERATION OF
Attorney Docket No. 07844-333003	:	PATENT TERM ADJUSTMENT
/ P307 C1	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued, and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), each of which was filed on November 26, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,400,763, with a revised patent term adjustment of 748 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, as this patent issued prior to the issuance of the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).[1]

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 15, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 26, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 15, 2008, the date two months from the date this patent issued. Rather, on December 8, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is that the decision of *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008) occurred subsequent to the issuance of this patent.[2]

First, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[3], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. It appears that Petitioner has implied that a Request for Reconsideration of Patent Term Adjustment could not have been filed within two months of the date the above-referenced patent issued, because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was not issued until more than two months after the issuance of this patent. This argument is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now

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[2] Petition, page 1.

[3] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. — (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Second, Petitioner, if not on notice by established principles of administrative law, was on notice by the Office's issuance of the above-cited Opinion that failure to file a request for reconsideration of patent term adjustment within the two-month period as required would likely foreclose their right to judicial relief. Yet they chose to not to file a request for reconsideration within the two-month period. This consequence of their failure does not render the failure an extraordinary situation warranting waiver of the two-month requirement. The key consideration in determining whether waiver is warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Third, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

It is noted that this petition was filed almost two months after the Wyeth decision and more than four months after the issuance of the patent. Given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of

that petition, Petitioner's unexplained more than two-month delay in filing the petition weighs against them.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 26, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand and nineteen (1019) days.

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,400,763 with a revised patent term adjustment of 748 days. The instant request for reconsideration was filed more than four months after the issuance of the patent, on July 15, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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JUN 30 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,400,763	:	ON PETITION
Hamburg	:	under 37 CFR 1.183
Issue Date: July 15, 2008	:	
Application No. 10/903,520	:	and
Filed: July 30, 2004	:	ON REQUEST FOR RECONSIDERATION
Attorney Docket No. 07844-333003/P307 C1	:	OF PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on November 26, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this

decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,400,763, with a revised patent term adjustment of 748 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, in view of the "exceptional" situation presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 15, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 26, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 15, 2008, the date two months from the date this patent issued, July 15, 2008. Rather, on November 26, 2008, nearly two months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the "exceptional" situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of

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[2] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

The key consideration in determining whether waiver is warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition petitioner's unexplained nearly two-month delay in filing the petition, after the issuance of the Wyeth decision, weighs against them. Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 26, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand and nineteen (1019) days.

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,400,763 with a revised patent term adjustment of 748 days. The instant request for reconsideration was filed more than four months after the issuance of the patent, on November 26, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

The request for waiver of 37 CFR 1.705(d) pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 23, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/903537 /7436389

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2629
Art Unit

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APR 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Timothy A. Robbins et al	:	
Application No. 10/903,553	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 7078US02	:	

This is a decision on the petition filed October 24, 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 22, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 23, 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; (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

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P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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DEC 11 2009

OFFICE OF PETITIONS

In re Application of
Daniel C. Battagin et al
Application No. 10/903,568
Filed: July 30, 2004
Attorney Docket No.
60001.0336US01/308105.01

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 December 9, 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 December 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2161 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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APR 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel C. Battagin, et al.	:	
Application No. 10/903,568	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
60001.0336US01/308105.01		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, April 27, 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 March16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2161 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
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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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
Mark Geoffrey Masen et al. :
Application No. 10/903,575 :
Filed: July 30, 2004 :
Attorney Docket No. 68,181-031 :

ON PETITION

This is a decision on the petition filed January 5, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on December 8, 2004, for failure to timely reply to the Notice to File Missing Parts, mailed October 7, 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 7, 2005.

The filing of the response to the Notice to File Missing Parts mailed October 7, 2004 is acknowledged. All other requirements having been met, this matter is being referred 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Robert P. Morris	: DECISION ON REQUEST FOR
Patent Number	: 7593984	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,576	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **46** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

Mail Date: 05/18/2010

Applicant	: Robert P. Morris	: NOTICE CONCERNING IMPROPER
Patent Number	: 7593984	: CALCULATION OF PATENT TERM
Issue Date	: 09/22/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/903,576	: IMPROPERLY MEASURING REDUCTION
Filed	: 07/30/2004	: 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 **115** 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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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
ONE STATE STREET, SUITE 800
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
GRAY, et al.	:	
Application No. 10/903,585	:	DECISION ON PETITION
Filed: August 2, 2004	:	TO WITHDRAW
Attorney Docket No. 9278.0006	:	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 1, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Theresa A. Hendricks and RISSMAN JOBSE HENDRICKS & OLIVERIO LLP has been revoked by the assignee of the patent application on August 23, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT M. MCDERMOTT, ESQ.**
1824 FEDERAL FARM ROAD
MONTROSS, VA 22520

UNITED STATES PATENT AND TRADEMARK OFFICE

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KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
KANNAN et al.	:	
Application No. 10/903,586	:	DECISION ON PETITION
Filed: August 2, 2004	:	TO WITHDRAW
Attorney Docket No. W0002/7000	:	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 1, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Theresa A. Hendricks on behalf of all attorneys of record who are associated with customer No. 21127.

All attorneys/agents associated with the Customer Number 21127 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Navneeth N. Kannan
13 April Lane
Westford, MA 01886

cc: West Ridge Networks, Inc.
P.O. Box 2002
Andover, MA 01810

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
10/903,586	08/02/2004	Navneeth N. Kannan	9278.0005

CONFIRMATION NO. 2996

OC000000019813765

21127
KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

Date Mailed: 07/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/01/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM S. FROMMER, ESQ.
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of	:
Jason Charles Pelly et al.	:
Application No. 10/903,601	: DECISION REFUSING STATUS
Filed: July 30, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 450110-05219	:

This is in response to the petition under 37 CFR 1.47(a), filed November 5, 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 30, 2004 naming Jason Charles Pelly, Andrew Robert Taylor, Daniel Warren Tapson, Daniel Luke Hooper and Emmanuel Alves-Moreira as joint inventors, but without a without a signed declaration.

Accordingly, on September 28, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on November 5, 2004, the present petition was filed. Petitioners seek status under 37 CFR 1.47(a) because joint inventor Emmanuel Alves-Moreira is "unavailable to sign the declaration.....". Petitioners claim that a copy of the application and oath or declaration signed by the other joint inventors was mailed to Mr. Alves-Moreira at the last known address but that the package sent to him was returned by the British postal service as undeliverable because Mr. Alves-Moreira no longer lives at that address.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners claim that Mr. Alves-Moreira no longer lives at the last known address to which the application materials were sent, and subsequently returned as undeliverable. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Alves-Moreira, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Alves-Moreira by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Alves-Moreira cannot be found despite diligent efforts.

If Alves-Moreira refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, if it is found that joint inventor Alves-Moreira is residing at a different address than that listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
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

[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM S. FROMMER, ESQ.
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of
Jason Charles Pelly et al.
Application No. 10/903,601
Filed: July 30, 2004
Attorney Docket No. 450110-05219

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:**37 CFR 1.47(a) DISMISSED** AS
:INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed November 5, 2004 and was dismissed in a decision mailed November 19, 2004.

Papers filed on March 21, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed November 19, 2004, included a declaration signed by the previously non-signing inventor, Emmanuel Alves-Moreira, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed March 21, 2005 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to Technology Center 3621 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
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MAR 14 2005

In re Application of	:	
Harry F. Hiltner, Jr. et al.	:	
Serial No. 10/903,616	:	DECISION ON PETITION
Filed: August 2, 2004	:	TO MAKE SPECIAL
For: GOLF CLUB AND GOLF PIN	:	
STAND	:	

Applicant's petition, filed August 2, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Litman Law Offices, Ltd.
P.O. Box 15035
Arlington, VA 22215

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Greenberg Traurig, LLP
Met Life Building
200 Park Avenue
New York, New York 10166

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NOV 2 6 2004

Technology Center 2100

In re Application of: Brian E. Barth et al.	)	
Application No. 10/903,623	)	DECISION ON PETITION TO
Filed: July 30, 2004	)	MAKE SPECIAL UNDER
For: METHOD AND APPARATUS FOR	)	M.P.E.P. §708.02(II):
DYNAMIC INFORMATION	)	INFRINGEMENT
CONNECTION SEARCH ENGINE	)	

This is a decision on the petition, filed August 30, 2004, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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 prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicants' 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 expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of	:
Takeo Seino et al	:
Application No. 10/903,633	: DECISION GRANTING PETITION
Filed: July 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 524941/0025	:

This is a decision on the petition, filed February 1, 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 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: David A. Wyle	: DECISION ON REQUEST FOR
Patent Number	: 7610227	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

BRAD I. GOLSTEIN
WORK TOOLS, INC.
20755 PLUMMER STREET
CHATSWORTH CA 91311

In re Application of	:	
Joel Marks	:	
Application No. 10/903,645	:	ON PETITION
Filed: August 2, 2004	:	
Attorney Docket No. MH-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 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 required fees (2) the petition fee; 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 28, 2004, 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 and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Additionally, since the instant application was filed after June 8, 1995, no terminal disclaimer is required. The Office is in receipt of the Statement Under 37 CFR 3.73(b), filed on October 18, 2006, which accompanied the terminal disclaimer. Petitioner may request a refund of the terminal disclaimer fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany the request. Further, petitioner should be aware that Office records is not in receipt of a Power of Attorney ever being submitted in the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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THOMAS TREFFERT
MAURIEL KAPOUYTIAN & TREFFERT, LLP
1517 NORTH POINT STREET, BOX 454
SAN FRANCISCO. CA 94123

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael N. Gurevich, et al.	:	
Application No. 10/903,650	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. 0074532000501	:	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 17, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Mauriel, Kapouytian & Treffert, LLP has been revoked by the assignee of the patent application on December 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: STEVEN P. PHILLIPS, ESQUIRE
MOORE & VAN ALLEN, PLLC
430 DAVIS DRIVE
SUITE 500
MORRISVILLE, NC 27560

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

NOV - 8 2005

Technology Center 2100

In re Application of: HAYASHI, et al.
Application No. 10/903,651
Filed: July 29, 2004
For: PROCESSING APPARATUS, PROCESSING APPARATUS CONTROL METHOD AND PROGRAM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 09 September 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 09 September 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion of the references is not sufficiently detailed. The discussion of each reference is only a few sentences long and gives only a cursory description. Additionally, the statement purporting to distinguish each independent claim from each reference recites so many limitations that the statement is insufficient in distinguishing how each independent claim is patentable over the references.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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JAN 27 2006

TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: HAYASHI et al.
Application No. 10/903,651
Filed: July 29, 2004
For: PROCESSING APPARATUS, PROCESSING APPARATUS CONTROL METHOD AND PROGRAM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the renewed petition filed 27 December 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 09 September 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. Specifically, it was noted that the discussion of the references was not sufficiently detailed and that the statement purporting to distinguish each independent claim from each reference recited so many limitations that the statement was insufficient in distinguishing how each independent claim was patentable over the references.

Applicants' submission filed 27 December 2005 corrects the deficiencies noted in the original decision. Although the statement purporting to distinguish independent claim 1 from each reference is essentially the same as the statement provided in the original petition, upon reconsideration, this statement is found sufficient. The statement in the renewed petition regarding claims 9 and 10 is construed as meaning that the features identified as distinguishing claim 1 from each reference are the same features that distinguish claims 9 and 10 from each reference. If this interpretation is incorrect, applicants must notify the undersigned immediately. Thus, the combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Osamu Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7643731	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1528** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/903,663	07/30/2004	3634	385	LYNK	4	6	2

CONFIRMATION NO. 3413

CORRECTED FILING RECEIPT

OC000000014753472

5251
SHOOK, HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY,, MO 64108

Date Mailed: 12/14/2004

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 B. Klein, Overland Park, KS;
John W. Scott, Lenexa, KS;
Chris Serslev, Leawood, KS;

Assignment For Published Patent Application

Lynk, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/223,905 08/20/2002 PAT 6,786,337

Foreign Applications

If Required, Foreign Filing License Granted: 09/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/903,663

Projected Publication Date: 01/06/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Wooden shoe rack construction

Preliminary Class

211

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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HOUSTON TX 77057-2631

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SEP 23 2008

In re Application of	:	
George Z. Chrysos et al.	:	
Application No. 10/903,675	:	DECISION ON PETITION
Filed: July 30, 2004	:	PURSUANT TO
Attorney Docket No.: ITL.1153US	:	37 C.F.R. § 1.181(A)
(P19393)	:	
Title: METHOD AND APPARATUS FOR	:	
IMPLEMENTING MEMORY ORDER	:	
MODELS WITH ORDER VECTORS	:	

This is a decision on the petition filed September 3, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 22, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for

transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on July 23, 2008. A Notice of Abandonment was mailed on August 21, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> 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

1 See MPEP § 710.02(e).

of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the Notice of Allowance and Issue Fee Due of April 22, 2008 was not received at the correspondence address of record and that a search of the file jacket and docket records indicates that the Office action

was not received. Petitioner has further included a copy of a print-out of the "Case History," which constitutes a copy of the record used by the practitioner where the non-received Office action would have been entered had it been received.

However, Petitioner has failed to either **describe the docketing system** that Petitioner has in place or establish that it is **sufficiently reliable**.

Moreover, Petitioner has not stated that a **search of the application contents** indicates that the Office action was not received.

Finally, Petitioner has not provided a **copy of the master docket** for the firm, or stated that no such master docket exists.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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In re Application of George Z. Chrysos et al. Application No. 10/903,675 Filed: July 30, 2004 Attorney Docket No.: ITL.1153US (P19393) Title: METHOD AND APPARATUS FOR IMPLEMENTING MEMORY ORDER MODELS WITH ORDER VECTORS	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the renewed petition filed on October 23, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 22, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on July 23, 2008. A Notice of Abandonment was mailed on August 21, 2008.

1 See MPEP § 710.02(e).

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on September 3, 2008, and was dismissed via the mailing of a decision on September 23, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> 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.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With the original petition, Petitioner indicated that the Notice of Allowance and Issue Fee Due of April 22, 2008 was not received at the correspondence address of record and that a search of the file jacket and docket records indicated that the Office action was not received. Petitioner further included a copy of a print-out of the "Case History," which constitutes a copy of the record

used by the practitioner where the non-received Office action would have been entered had it been received.

With this renewed petition, Petitioner has stated that a search of the application contents indicates that the Office action was not received,[2] and has provided a copy of the master docket.

However, Petitioner has failed to adequately **describe the docketing system** that Petitioner has in place so as to establish that it is **sufficiently reliable**.

Petitioner has indicated that when Office communications are received, a Docket Clerk calculates "a due date and an action required,"[3] enters the information into an electronic docketing system by the name of "Master Data Center IP Master (MDC IPMaster for Windows™)"[4] and a paper docket report is generated for "each responsible attorney and the attorney's assistant at least monthly,"[5] with each report containing all due dates for that particular month.

However, the record is silent as to whether these paper docket reports are **distributed** to each responsible attorney and the attorney's assistant.

Regarding the **reliability** of the system, the individual docket report that is associated with this particular application has been reviewed, and it does not contain all Office communications that pertain to this application. It does not contain any correspondence that precedes the filing of the Request for Continued Examination (RCE). On second renewed petition, Petitioner must indicate why the docket report does not contain any information pertaining to correspondence that precedes the filing of the RCE.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

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2 Renewed petition, paragraph 2.
3 Id. at 4.
4 Id.
5 Id. at 5.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).

Petitioner will note that a third option is to concurrently file both a renewed petition pursuant to Rule 1.181(a) and a petition pursuant to 1.137(a) and/or 1.137(b). If either of the lesser expensive petitions are granted, the fee(s) that is/are associated with the more expensive petition(s) will be refunded to Petitioner.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[10] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Stephen E. Deal	: DECISION ON REQUEST FOR
Patent Number	: 7637863	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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meb

Mailed: 2-7-07

In re Application of:
Edward McComas
Serial No. 10/903,687
Filed: August 2, 2004
For: Electroless Plating With Nanometer Particles

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT AND THE FINALITY made in the office action mailed July 7, 2006.

On November 29, 2005, a restriction requirement and non-final rejection was made by the examiner. The examiner took the position that the groupings of claims were related as a product, a method of making that product, and a composition for making the product and for use in the process. Applicants traversed the restriction requirement and amended the claims in a response filed April 27, 2006. The examiner repeated the restriction requirement in the final office action mailed July 7, 2006 and made the restriction requirement final, and further addressed the claims by including the teaching of prior art that was incorporated by reference by the applied art of 6,156,390 to Henry. Applicants continued to argue the restriction requirement and art rejections in a response filed September 5, 2006. The examiner prepared an advisory action that was mailed on September 14, 2006.

On November 28, 2006, the instant petition was filed to formally request the withdrawal of the restriction requirement and the finality of the office action of July 7, 2006.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct and that no undue burden of search exists. Applicant's position for the withdrawal of the finality is that the examiner relied upon the incorporation by reference to reject the claims in the final office action, which was a new issue and a new grounds of rejection.

DECISION

Sections 803, 806.05(f), 806.05(h) and 806.05(j) of the MPEP state:

803 Restriction - When Proper
Under the statute>, the claims of< an application may properly be required to be

restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **> 802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *> 806.05(j)<).

806.05(f) [R-3] Process of Making and Product Made *
A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make **>another materially different product<; or (B) that the product as claimed can be made by another * materially different process.
Allegations of different processes or products need not be documented.
A product defined by the process by which it can be made is still a product claim (In re Bridgeford, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention.

806.05(h) [R-3] Product and Process of Using
A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.
The burden is on the examiner to provide an example, but the example need not be documented.
If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

806.05(j) [R-5] Related Products; Related Processes
To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § 808.02. See MPEP § 806.05(c) for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if
(A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;
(B) the inventions as claimed are not obvious variants; and
(C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.
The burden is on the examiner to provide an example to support the determination that the inventions are distinct, but the example need not be documented. If applicant either proves or provides convincing evidence that the example suggested by the examiner is not workable, the burden is on the examiner to suggest another viable example or withdraw the restriction requirement.
<u>As an example, an intermediate product and a final product can be shown to be distinct inventions if the intermediate and final products are mutually exclusive inventions (not overlapping in scope) that are not obvious variants, and the intermediate product as claimed is useful to make other than the final product as claimed.</u> Typically, the intermediate loses its identity in the final product. See also MPEP § 806.05(d) for restricting between combinations disclosed as usable together. See MPEP § 809 - § 809.03 if a generic claim or claim linking multiple products or multiple processes is present.

The issue of the propriety of the restriction requirement will be addressed first. The examiner first made the restriction requirement in an office action mailed November 29, 2005. In the office action, the examiner takes the position that the product claims of Group I are patentably distinct from the process claims of Group II because the product as claimed could be used in a materially different process such as being used as an abrasive in an abrading or polishing process. This is a reasonable position in that the product/composition claimed is contain DLC particles, which are known abrasive/polishing particles. Petitioner takes the position that the examiner provides no explanation or examples of where such a composition of Group I could be used as an abrasive composition. This argument is not persuasive. The examiner, in the response of July 7, 2006, shows where examples and evidence where DLC nanoparticles can be useful for polishing, thus meeting the distinction requirement MPEP 806.05(h). The examiner further takes the position that the product claims of Group III can be made by a materially different process other than that of Group II. This is a reasonable position, as a product defined by the process by which it can be made is still a product claim. The fact that a new process has been discovered to make a known product cannot impart patentability on that product. When examining a product-by-process claim, the examiner must take into account the process limitations only so far as they impart actual structural limitations to the final product. The claim is still directed to a product and therefore, only the actual structure of the product can impart patentability. The MPEP and the case law cited above, clearly allows for the restriction between process claims and the products formed by those processes. It is also noted that allegations of different processes need not be documented as argued by Petitioner. The mere assertion by Applicants that the product as claimed can not be made by electroplating, is insufficient to shift the burden back to the examiner, who set forth a reasonable position as to other methods of making the instantly claimed product. Furthermore, the examiner did provide such evidence in the response July 7, 2006 to show that such a product of Group III can be made by an electroplating process, which is sufficient to meet the distinction requirement of MPEP 806.05(f). The examiner further takes the position that the products of Groups I and III are distinct as intermediate-final product, where the intermediate product of Group I can be used as an abrasive/polishing material, which would have produced a product materially different than that of Group III. The petitioner argues that there is no suggestion or known use of the claimed product of Group I other than that of an electroless plating bath. As indicated above, the examiner has shown that the product of Group I can reasonably be expected to function as an abrasive/polishing composition, and thus would meet the distinction requirement of MPEP 806.05(j). Therefore, the examiner has met the requirements of MPEP 803 that the inventions of Groups I, II, and III are distinct.

Applicants also argue that there would be no undue burden of search for the examiner to examine all of the claims. In the original restriction requirement set forth by the examiner, the different groups are shown to be classified in different classes and subclasses. It is clear that a search of the method of making and using claimed would not require the same search as the articles and products claimed. While there would be an overlap in the searches, a search of the article itself would be much more extensive than the specific method claimed. Therefore a serious burden of search would exist for the examiner to have to examine all groups.

Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Next, the propriety of the finality of the July 7, 2006 office action will be addressed. In the office action of July 7, 2006, the examiner rejected Claims 1-5, 8 and 19 under 35 USC 102(b) over U.S. Patent No. 6,156,390 to Henry. In the above mentioned 102(b) rejection, the examiner cites the teaching of U.S. Patent No. 4,830,889, which was incorporated by reference to the 6,156,390 reference, to show where recited claim limitations were taught.

Petitioner argues that the inclusion of the U.S. 4,830,889 reference to the rejection of the claims over U.S. Patent No. 6,156,390 to Henry is a new issue and a new ground of rejection that was not necessitated by any amendments to the claims.

Petitioner's argument that the grounds of rejection were changed are not persuasive. As discussed in MPEP 2163.07(b), incorporated by reference material is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed. The material contained the U.S. 4,830,889 is treated as part of the text of the U.S. Patent No. 6,156,390 to Henry, since it was incorporated by reference. The final rejection sets forth the use of U.S. Patent No. 6,156,390 to Henry to show that claims 1-5, 8 and 19 are anticipated. The examiner indicates that newly recited limitations to the stabilizer are taught in U.S. Patent No. 6,156,390 to Henry by U.S. 4,830,889, which is incorporated by reference. There is no indication by the examiner or the final office action that the U.S. Patent No. 6,156,390 to Henry is being used or applied in a different matter so as to amount to a new grounds of rejection over claimed limitations not necessitated by amendment. Therefore, it is deemed that the finality of the office action of July 7, 2006 is proper. Accordingly, the petition for withdrawal of finality is **DENIED**.

Applicant's time for response to the July 7, 2006 office action continues to run as set forth in the office action.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SAM SILVERBERG
LAW OFFICES OF SAM SILVERBERG
6820 32nd STREET, N.W.
WASHINGTON, DC 20015

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Law Offices of Sam Silverberg
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OFFICE OF PETITIONS

In re Application of	:	
Edward McComas	:	
Application No. 10/903,687	:	ON PETITION
Filed: August 2, 2004	:	
Attorney Docket No. Mc Mcomas I	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 2, 2007. A Notice of Abandonment was mailed on March 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $525 for a three months extension of time filed on February 4, 2008. 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). Since the $525 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and petitioner may request a refund of this fee to be credited back to the credit card by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being referred to Technology Center Art Unit 1792 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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wk

Mailed: 8-9-07

In re application of	:	
Jun-Yeob Lee, et al.	:	DECISION ON
Serial No. 10/903,697	:	PETITION
Filed: July 29, 2004	:	
For: Full Color Organic Electroluminescence Display Device	:	

This is a decision on the petition filed on April 17, 2007. The petition requests to reset the period of reply of an office action.

Applicants never received the Office Action dated October 17, 2006. Applicant did not become aware of the Office Action until April 17, 2007 when the Examiner called. Applicant has submitted a declaration indicating that the docketing records were searched.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **GRANTED**.

The response period for the Office Action will be reset with date of April 17, 2007.

Jacqueline M. Stone/wk

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Peter C. Hsueh
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/903,708	07/30/2004	Mark Anthony Benevento	P26,240-A USA

CONFIRMATION NO. 2887

OC000000015406711

23307
SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 191072950

Title: Minature golf game

Publication No. US-2005-0051951-A1
Publication Date: 03/10/2005

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently http://www.uspto.gov/patft/.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at (703) 305-3028.

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606

In re Application of	:	ON PETITION
William Jones et al.	:	TO WITHDRAW FINALITY
Appl. No. 10/903,745	:	OF OFFICE ACTION
Filed: July 30, 2004	:	UNDER 37 CFR 1.181
For: CURRENCY PROCESSING DEVICE, METHOD AND SYSTEM	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed on November 5, 2008 to request the examiner (1) to review the claims pending in U.S. patent application Serial Nos. 11/036,686 and 10/903,745, (2) to inform applicants of any claims in these applications which will be subject to a double-patenting rejection including any provisional double-patenting rejection by the USPTO, if any, and (3a) to withdraw the finality of the Office action of September 5, 2008 in the '745 application or, alternatively, (3b) to permit applicants to move claims between these two applications to obviate any double-patenting rejections raised despite the issuance of Final Office actions in these two applications

The petition is **MOOT,** given that the issues presented in the petition have been addressed by the examiner during prosecution of the application and are no longer pending. A review of the record shows that on January 21, 2009 the examiner mailed a non-final Office action withdrawing the finality of the Office action mailed September 5, 2008. In the non-final Office action, the examiner rejected claims in this application on the ground of nonstatutory obviousness-type double patenting over claims of U.S. patent application Serial No. 11/036,686.

For the reasons above, the Petition is **DISMISSED** as moot.

Any questions regarding this decision should be directed to Patrick Mackey at 571-272-6916.

Frederick Schmidt
Director Technology Center 3600
571-272-5150

pm/lm: 12/15/09

LM

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WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
Gary A. Lebens
Application No. 10/903,753
Filed: July 30, 2004
Attorney Docket No. 139.060US2

: DECISION DISMISSING PETITION
: UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed July 13, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee's full name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignees.

The request is **dismissed**.

Petitioner states that the assignee's full name is PPT Vision, Inc. and that PPT Vision, Inc. was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to PPT Vision, Inc.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The 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 the provisions of 37 CFR 3.81(a), the request cannot be granted.

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[1] *See* Official Gazette of June 22, 2004

After issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction <u>upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Geophysical Survey Systems, Inc. and Vermeer Manufacturing Company, as the assignees</u>. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***<u>must</u>*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignees set forth in the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. After the submission by petitioner of the request for a certificate of correction to correct the assignees data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Gary A. Lebens :
Application No. 10/903,753 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. 139.060US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed April 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 101804

OCT 26 2004

George L. Pinchak
WATTS HOFFMANN CO., LPA
1100 Superior Avenue, Ste. 1750
Cleveland, OH 44114-2518

In re Application of:	:	
FETTEROLF *et al.*	:	DECISION ON PETITION
Serial No.: 10/903,756	:	TO MAKE SPECIAL
Filed: July 30, 2004	:	
Attorney Docket No.: **16-550**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed July 30, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 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 one of the co-inventors, Arthur H. Heuer, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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STE. 1750
1100 SUPERIOR AVE.
CLEVELAND OH 44114

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JAN 19 2010

In re Application of	:	
James R. FETTEROLF, Sr. et al.	:	
Patent No. 6,998,538	:	NOTICE
Application No. 10/903,756	:	
Filed: July 30, 2004	:	
Attorney Docket No. **16-550**		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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In re Application of	:	
Tryfon D. CASTRITIS	:	
Application No. 10/903,763	:	DECISION ON PETITION
Filed: July 31, 2004	:	
Attorney Docket No. **RLA35.100**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before August 13, 2007, as required by the Notice of Allowance and Fee(s) Due, May 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 14, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

In regard to item (1), petitioner should note that the issue fees for a small entity is currently $755. Petitioner has paid only $700. There is no authorization to charge the balance of $55 to a Deposit Account.

The change of address is accepted and has been made of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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APR 23 2010

OFFICE OF PETITIONS

TRYFON D. CASTRITIS
3076 CHESTNUT AVENUE
LONG BEACH CA 90806

In re Application of	:	
Tryfon D. CASTRITIS	:	
Application No. 10/903,763	:	DECISION ON PETITION
Filed: July 31, 2004	:	
Attorney Docket No. **RLA35.100**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before August 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 11, 2007. Accordingly, the date of abandonment of this application is August 14, 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 $755, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COHEN, PONTANI, LIEBERMAN & PAVANE, LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Application of
Pascal R. Chesnais, et. al.
Application No. 10/903,779
Filed: July 30, 2004
Attorney Docket No. 528401-8

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed May 8, 2009. A Notice of Abandonment was mailed on December 7, 2009.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Gregory L. Thorne 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.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the address given in the present petition differs from the address of record, a courtesy copy of this decision is being mailed to the address in the present petition. Thereafter, all future correspondence regarding this application will be mailed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 3715 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Gregory L. Thorne
111 West Main Street
Bay Shore, NY 11706

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Khen et al.	:	
Application No. 10/903,781	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 60001.0337US01/MS	:	

This is a decision on the petition, filed April 27, 2009, 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 May 21, 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 September 17, 2009, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2194 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
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/903,781	07/30/2004	Dan Y. Khen	60001.0337US01/MS# 308125

CONFIRMATION NO. 4719

27488
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

NONPUBLICATION RESCISSION LETTER

OC000000036444748

Date Mailed: 06/12/2009

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 09/17/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/lswalsh/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD (MICROSOFT) (For Applicant)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

Noreen A. Fabean (For Third Party Requester)
P.O. Box 2098
Arlington, VA 22202

MAILED
OCT 07 2009
OFFICE OF PETITIONS

Applicant: KHEN et al.
Appl. No.: 10/903781
Filing Date: July 30, 2004
U.S. Publication No.: US 2009/0235154 A1
Pub. Date: September 17, 2009
Title: METHOD, SYSTEM, AND APPARATUS FOR PROVIDING ACCESS TO WORKBOOK MODELS THROUGH REMOTE FUNCTION CALLS
Attorney Docket No.: 60001.0337US01/308125.01

This is in response to the "REQUEST AND/OR PETITION FOR ACCESS TO FILE CONTENTS" received on July 22, 2009 for the above-identified application, which will be treated under 37 CFR 1.14.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

37 CFR 1.14(a) (iii) states:

Published pending applications. A copy of the application-as-filed, the file contents of the application, or a specific document in the file of a pending application that has been published as a patent application publication may be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b). If a redacted copy of the application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy. The Office will not provide access to the paper file of a pending application that has been published, except as provided in paragraph (c) or (i) of this section.

37 CFR 1.14(b) states:

(b) *Electronic access to an application.* Where a copy of the application file or access to the application may be made available pursuant to this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application.

As application 10/903,781 has already published as U.S. Publication No.: US 2009/0235154 A1, on September 17, 2009, petitioner, by operation of 37 CFR 1.14, has access to the application, thus rendering the petition moot. In accordance with 37 CFR 1.14(b) the application is available electronically.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Inquiries relating to this matter may be directed to the undersigned at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,930,251	2005-08-16	10/903,795	2004-07-30	1001.027

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	/Kenneth C. Booth/	Date (YYYY-MM-DD)	2009-08-25
Name	Kenneth C. Booth	Registration Number	42342

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6930251
Issue Date: August 16,2005
Application No. 10903795
Filed: July 30,2004
Attorney Docket No. SHOT-10309

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed August 25,2009 ,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 August 25,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IMMUNICON CORPORATION
3401 MASONS MILL ROAD
SUITE 100
HUNTINGDON VALLEY, PA 19006

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Tibbe et al. :
Application No. 10/903,798 : ON PETITION
Filed: July 30, 2004 :
Attorney Docket No. IMMC 212 PCT/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 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 January 11, 2007 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned 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 election of the invention to be examined, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350 extension of time fee submitted with the petition on January 22, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

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 Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 1641 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOSEPH F. ACETO
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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

JUL 18 2005

Director's Office
Group 3700

Dorothy S. Morse, Esq.
515 Park Drive, N.W.
Bradenton, FL 34209-1847

In re application of
Samuel Barran Tafoya

Serial Number: 10/903801
Filed: July 30, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **THERMODYNAMIC PRESSURE GENERATOR**

This is a decision on the petition filed on July 30, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 7/14/05

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)
6,924,433	2005-08-02	10/903,821	2004-07-30	1001.007

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	/Kenneth C. Booth/	Date (YYYY-MM-DD)	2009-08-25
Name	Kenneth C. Booth, Attorney of Record	Registration Number	42342

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6924433
Issue Date: August 2,2005
Application No. 10903821
Filed: July 30,2004
Attorney Docket No. 1001.007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 25,2009 ,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 August 25,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL R. FRISCIA
MCCARTER & ENGLISH, LLP
FOUR GATEWAY STREET
100 MULBERRY STREET
NEWARK, NJ 07102

COPY MAILED

AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul **LAPTANTE**	:	
Application No. 10/903,831	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. 7800/2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because it does not include a customer number for the attorneys being withdrawn.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PAUL LAPLANTE
387 BODSON DRIVE, W.
VAL CARON, ONTARIO P3N 1R4
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL R. FRISCIA
MCCARTER & ENGLISH, LLP
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

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SEP 25 2008

In re Application of	:	
Paul LAPLANTE	:	
Application No. 10/903,831	:	DECISION ON PETITION
Filed: July 30, 2004	:	TO WITHDRAW
Attorney Docket No. 7800/2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Michael R. Friscia on behalf of all attorneys associated with Customer Number 27614.

All attorneys of record associated with Customer Number 27614 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PAUL LAPLANTE
387 BODSON DRIVE, W.
ONTARIO P3N1R4
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
BONCI, Antonello et al.	:	
Application No. 10/903,849	:	DECISION ON PETITION
Filed: July 29, 2004	:	TO WITHDRAW
Attorney Docket No. **316T-001910US**	:	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 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BEYER WEAVER LLP has been revoked by the assignee of the patent application on December 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **QUINE INTELLECTUAL PROPERTY**
LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

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.
10/903,870	07/30/2004	Rajinder Singh	09-570-US-3	4009

84067 7590 01/25/2010
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

EXAMINER
JOHNSEN, JASON H

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
01/25/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No.: 7122542	:	
Issue Date: October 13, 2006	:	**DECISION GRANTING**
Appl No.: 10/903,870	:	**PETITION**
Filed: July 30, 2004	:	*37 CFR 1.324*
For: SINGH et al.	:	
	:	
	:	
	:	

This is a decision on the petition filed October 13, 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.

/James O. Wilson/
Supervisory Patent Examiner
Art Unit 1624
Technology Center 1600

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

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: January 20, 2010
TO: Certificates of Correction Branch
FROM: James O. Wilson
SPE, Art Unit 1624
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7122542 as specified on the attached Certificate.

/James O. Wilson/, SPE
Art Unit 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7122542
Patented: October 17, 2006

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:

Rajinder Singh, Belmont, California; Ankush Argade, Foster City, California; Hui Li, Millbrae, California; Somasekhar Bhamidipati, Foster City, California; Catherine Sylvain, San Mateo, California; Jeffrey Clough, Redwood City, California; Holger Keim, Menlo Park, California

/James O. Wilson/
Supervisory Patent Examiner
Art Unit 1624

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CARLSON, GASKEY & OLDS, P.C.
SUITE 350
400 W. MAPLE ROAD
BIRMINGHAM MI 48009

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Otman Adam BASIR et al.	:	
Application No. 10/903,878	:	DECISION ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. **60449-113**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 07, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $255.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3616 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

Mail Date: 04/21/2010

Applicant	: Bret Berner	: DECISION ON REQUEST FOR
Patent Number	: 7612112	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 15 2005

OFFICE OF PETITIONS

FRASER MARTIN BUCHANAN MILLER LLC
132C WEST SECOND STREET
PERRYSBURG OH 43551-1401

In re Application of	:
Case et al.	:
Application No. 10/903,907	: DECISION GRANTING
Filed: July 30, 2004	: PETITION
Attorney Docket No. 1-37216	:

This is a decision on the petition filed February 3, 2005, requesting that the above-identified application be accorded a filing date of July 30, 2004, instead of the presently accorded filing date of July 31, 2004.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on July 30, 2004, pursuant to the requirements of 37 CFR 1.10. In support, petitioners supplied a copy of Express Mail label ER234370218US which bears a "date in" of July 31, 2004. The petition is also accompanied by a copy of the Utility Patent Application Transmittal form with the above-mentioned Express Mail number, and a copy of the U.S. Postal Services tracking system for Express Mail label ER234370218US .

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

[1] See 37 CFR 1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1 (r) of this chapter.

A review of the copy of the Express Mail receipt ER234370218US indicates a "date in" of July 31, 2004. However, a review of the U.S. Postal Service's tracking system shows Express Mail package bearing label ER234370218US was accepted and enroute on July 30, 2004.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to July 30, 2004.**

This application is being forwarded to the Office of Initial Patent Examination for further processing including a corrected filing receipt.

Telephone inquiries may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
MCAULAY, Robert J. et al.
Application No. 10/903,908
Filed: July 30, 2004
Attorney Docket No. **16759-004001**

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 23, 2009 and re-submitted on March 24, 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 Elliott Mason, III. on behalf of all attorneys of record who are associated with customer No. 26161. All attorneys/agents associated with the Customer Number 26161 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 at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed October 29, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROBERT J. MCAULAY**
4 LEXINGTON AVENUE
LEXINGTON MA 02421

cc: **NELLYMOSER, INC.**
11 WATER STREET
ARLINGTON MA 02476

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Jeffrey Clayton Dick	: DECISION ON REQUEST FOR
Patent Number	: 7591836	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Malan de Villiers	: DECISION ON REQUEST FOR
Patent Number	: 7575599	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,913	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **598** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OCT 2 6 2005
OFFICE OF PETITIONS

In re Application of	:
C. Martin Rasmussen	:
Application No. 10/903,922	: DECISION GRANTING PETITION
Filed: July 31, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038664-0103	:

This is a decision on the petition, filed October 25, 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 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-13-04 Paper No.: _____

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/903922 Patent No. 6983979

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

July 6, 2006

Patent No. : 7,006,306 B2
Ser. No. : 10/903925
Inventor(s) : Falicoff, et al.
Issued : Feb. 28, 2006
Title : **CIRCUMFERENTIALLY EMITTING LUMINAIRES AND LENS-ELEMENTS FORMED BY TRANSVERSE-AXIS PROFILE-SWEEPS**
Docket No. : **3084.031**

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.

The alleged error in **column 18**, **line 52**, is a change made in an Examiner's Amendment at time of allowance. Since applicant filed no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP
1010 PEACH STREET
P.O. BOX 31
SAN LUIS OBISPO CA 93406

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

CHRISTOPHER DEVRIES
GENERAL MOROTS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Khwaja M. Rahman et al :
Application No. 10/903,929 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. GP-303950 :

This is a decision on the petition, filed March 1, 2007, and resubmitted on March 5, 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 January 31, 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 2834 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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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
Michael T. Engle et al	:	
Application No. 10/903,941	:	DECISION GRANTING PETITION
Filed: July 30, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18638-04-176	:	

This is a decision on the petition, filed August 25, 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 July 22, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the

USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 19, 2007 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2132 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/903,941	07/30/2004	Michael T. Engle	18638-04-176

CONFIRMATION NO. 5429

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Date Mailed: 01/09/2007

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

Mail Date: 04/21/2010

Applicant	: Michael L. Bell	: DECISION ON REQUEST FOR
Patent Number	: 7625761	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/903,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1441** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
www.uspto.gov

CHARLES N. J. RUGGIERO
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

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OFFICE OF PETITIONS

In re Application of	:	
Franz Arbogast et al	:	
Application No. 10/903,955	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. WW026USU	:	

This is a decision on the petition filed September 13, 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 September 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 19, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

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OFFICE OF PETITIONS

In re Application of	:	
Christopher C. BOGATH et al	:	
Application No. 10/904,021	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. 19.0358	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed July 24, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE and response, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2856 for appropriate action by the Examiner in the normal course of business on the reply received December 20, 2007.

David A. Bucci
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LANE TX 77478

In re Application of	:	
Christopher C. Bogath et al	:	
Application No. 10/904,021	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 19.0358	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 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 2856 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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TILLMAN WRIGHT, PLLC
P.O. BOX 471581
CHARLOTTE NC 28247

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OFFICE OF PETITIONS

In re Application of
GRAVINA, Craig S. et al.
Application No. 10/904,039
Filed: October 20, 2004
Attorney Docket No. **1002.017**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 09, 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, applicant/-assignee has terminated representation, does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THINGS PLC**
DOMINIC WHEATLEY
ASHELY WOOD FARM
HINDON LANE
TISBURY
WILTSHIRE SP3 6PY
UK

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FROM DIRECTORS OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 2 4 2006

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

TECHNOLOGY CENTER 3600

IVAN E. ROZEK
7023 123RD AVENUE SE
NEW CASTLE, WA 98056-1215

In re application of
Mark A. Schlieps
Application No. 10/904,041 : DECISION ON REQUEST
Filed: October 20, 2004 : FOR WITHDRAWAL OF
For: PLUMBERS SUPPORT PILLOW : ATTORNEY

This is a decision on the request filed on May 23, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of November 7, 2005.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587
Facsimile No.: (571) 273-8300

KJD/sb: 03/16/06

cc: CHARLES J. RUPNICK
P.O. BOX 46752
SEATTLE, WA 98146

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT & TRADEMARK OFFICE
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600 DULANY STREET
ALEXANDRIA, VA 22313

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OFFICE OF PETITIONS

In re Application of	:	
Jasbinder S. Sanghera, et al.	:	
Application No. 10/904,062	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. NC 96,197	:	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 4, 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 Rae Lynn Guest. Rae Lynn Guest has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **NAVAL RESEARCH LABORATORY**
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 29 2005

BROOKE SCHUMM III
ONE NORTH CHARLES STREET
SUITE 2450
BALTIMORE MD 21014

In re Application of	:
John H. Kuperus et al	:
Serial No.: 10/904,099	: PETITION TO MAKE SPECIAL
Filed: October 22, 2004	:
Attorney Docket No.: 101	:

This is in response to the petition filed April 12, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, I. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Sjogren :
Application No. 10/904,102 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 7589.209.PCUS00 :
For: DEVICE AND METHOD FOR
CONTROLLING A MACHINE

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed January 11, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 12, 2005. A Notice of Abandonment was mailed on September 22, 2005.

Applicant has submitted a proper reply in the form of filing fees, an executed declaration, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the January 11, 2005 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	DECISION
HANIFIN et al.	:	ON PETITION
Application No. 10/904,122	:	
Filed: October 25, 2004	:	
Attorney Docket No. CPD0001	:	

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 reply in a timely manner to a Notice to File Missing Parts of Nonprovisional Application mailed November 26, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 the statutory basic filing fee, an executed declaration, the late declaration surcharge fee, and the additional claim fee(s); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of November 26, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. Mr. Stuart Langley is not associated with Customer No. 25235. If the person signing the 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 petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The correspondence address has been changed in accordance with the executed declaration filed on October 13, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

cc: STUART LANGLEY
1470 WALNUT STREET
BOULDER, CO 80303

UNITED STATES PATENT AND TRADEMARK OFFICE

DAC

Commissioner for Patents
United States Patent and Trademark Office
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HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of
HANIFIN et al.
Application No. 10/904,122
Filed: October 25, 2004
Attorney Docket No. CPD0001

DECISION
ON PETITION

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 reply in a timely manner to a Notice to File Missing Parts of Nonprovisional Application mailed November 26, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 the statutory basic filing fee, an executed declaration, the late declaration surcharge fee, and the additional claim fee(s); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of November 26, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. Mr. Stuart Langley is not associated with Customer No. 25235. If the person signing the 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 petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The correspondence address has been changed in accordance with the executed declaration filed on October 13, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

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DEC 14 2005

cc: STUART LANGLEY
1470 WALNUT STREET
BOULDER, CO 80303

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Alexandria, VA 22313-1450
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JUL 15 2005

VALENTIN SHUSTOV
2423 FOOTHILL BLVD., #B202
LA CRECENTA, CA 91214

In re application of Valentin Shustov Application No. 10/904,142 Filed: October 26, 2004 For: ELEVATED BUILDING FOUNDATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on June 27, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a driver license for Valentin Shustov indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 7/6/05

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LUNDEEN & LUNDEEN, PLLC
2710 Louisiana
HOUSTON TX 77006

In re Application of	:	
Ramon Perez Cordova	:	
Application No. 10/904,163	:	DECISION ON PETITION
Filed: October 27, 2004	:	
Attorney Docket No. PER-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 15, 2008. Accordingly, the date of abandonment of this application is July 16, 2008. A Notice of Abandonment was mailed on April 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

July 2005

GLENN L. WEBB
P.O. BOX 951
CONIFER, CO 80433

AUG 26 2005

In re Application of:
JEFF DEFAZIO
Serial No.: 10/904,173
Filed: 27 October 2004
Title: INVISIBLE MULTIFOCAL SUNGLASSES

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on October 27, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed towards a single invention, and an intent to elect without traverse should election be required; and d) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met.

For the above-mentioned reasons, the petition is granted. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

The delay in considering the petition and issuance of this decision is regretted.

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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Pierre Desmarais
376 St-Elizabeth
Cantley QC J8V 3G6 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
DESMARAIS and TRZECIESKI :
Application No. 10/904,178 : ON PETITION
Filed: 10/28/2004 :
Attorney Docket No. 003-02 US :

This is in response to petition under 37 CFR 1.137(b), filed June 18, 2007, to revive the above-identified application.

On September 7, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period for reply. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on December 8, 2006. A Notice of Abandonment was mailed on May 15, 2007. On June 18, 2007, petitioner filed the present petition to revive under 37 CFR 1.137(b), signed only by joint inventor, Desmarais.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of
> § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The Office records do not indicate that applicants, Desmarais and Trzecieski, filed a power of attorney in the present application or assigned their interests. Therefore, all of the applicants must sign a petition in a joint application where the applicants have not given power of attorney to a registered attorney or agent. In the present case, only Desmarais signed the petition. There is no indication that Trzecieski gave power of attorney to applicant, Desmarais, to prosecute the application on his behalf. Accordingly, the petition is not properly signed by a person having authority to prosecute the application without the signature of the other applicant.

Accordingly, the petition is dismissed. The Office will not render a decision on this matter and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application (i.e. both Desmarais and Trzecieski).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Wayne H. Bradley	:	
Application No. 10/904,196	:	DECISION ON PETITION
Filed: October 28, 2004	:	TO WITHDRAW
Attorney Docket No. 037261-0132	:	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 28, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on February 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: FREESCALE SEMICONDUCTOR, INC.
6501 WILLIAM CANNON DRIVE WEST
AUSTIN, TX 78735

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/904,196	10/28/2004	Wayne H. Bradley	037261-0132

CONFIRMATION NO. 1196

POWER OF ATTORNEY NOTICE

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

OC000000034902014

Date Mailed: 03/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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INTERNATIONAL BUSINESS MACHINES CORP.
INTELLECTUAL PROPERTY LAW
650 HARRY ROAD
SAN JOSE, CA 95120

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OFFICE OF PETITIONS

In re Application of	:	
Volker G. Markl et al	:	
Application No. 10/904,241	:	DECISION GRANTING PETITION
Filed: October 29, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ARC920040057US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 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 December 6, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 7, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

Mail Date: 04/21/2010

Applicant	: Alex Cozzi	: DECISION ON REQUEST FOR
Patent Number	: 7595742	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,242	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036-3425

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AUG 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Yukio Koyanagi :
Application No. 10/904,278 :
Filed: November 2, 2004 :
Attorney Docket No. 22040-00041-US1

ON PETITION

This is a decision on the petition, filed August 15, 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 June 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
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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JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI 100 TW TAIWAN

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OFFICE OF PETITIONS

In re Application of	:	
Chung-Lin Fu et al.	:	DECISON
Application No. 10/904,296	:	ON PETITION
Filed: November 3, 2004	:	
Attorney Docket No. 13773-US-PA	:	

This is a decision on the petition filed March 31, 2009, which is being treated as a petition under 37 CFR 1.59 requesting that certain papers filed March 27, 2009, be expunged from the record.

The petition under 37 CFR 1.59 is **granted**.

Petitioner filed, electronically, papers in the above identified application on March 27, 2009 in response to a final Office action mailed December 29, 2008.

The instant petition notes that papers transmitted under the filename 18514-Response-AF.pdf.were erroneously misfiled in the above identified application and were meant to be filed in an unrelated application. Petitioner requests that these papers be removed from the file. A review of the file shows a one page "RESPONSE TO FINAL OFFICE ACTION" and six pages of "REMARKS" which, according to the Electronic Acknowledgement Receipt were filed under the file name indicated in the petition. A review of these papers, show that they were clearly meant for another, unrelated, patent application.

A petition to expunge papers under 37 CFR 1.59 requires a fee as set forth in 37 CFR 1.17(g) which is $200. The fee will be charged to petitioner's deposit account.

This application is being returned to Technology Center Art Unit 2629.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
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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IBM MICROELECTRONICS
INTELLECTUAL PROPERTY LAW
1000 RIVER STREET
972 E
ESSEX JUNCTION, VT 05452

Mail Date: 04/20/2010

Applicant	: Calvin J. Bittner	: DECISION ON REQUEST FOR
Patent Number	: 7640143	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,307	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1389** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEO H MCCORMICK
2112 MISHAWAKA AVE
PO BOX 4721
SOUTH BEND, IN 46634

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OFFICE OF PETITIONS

In re Application of Bowman :
Application No. 10/904,311 : Decision on Petition
Filing Date: November 3, 2004 :
Attorney Docket No. R.75413 :

This is a decision on the petition filed May 7, 2007, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition states,

> This application was unintentionally abandoned and applicant requests revival under 37 CFR 1.137a. The fee of $1,200 for revival should be charged.

The language in the petition appears to indicate petitioner is requesting relief under 37 CFR 1.137(b), rather than 37 CFR 1.137(a). Therefore, the petition is being treated as a petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on December 22, 2006. A Notice of Abandonment was mailed on April 11, 2007.

The instant petition was filed May 7, 2007, and requests revival of the application. Petitioner has submitted a reply to the non-final Office action.

Petitioner has submitted the required petition fee of $1,500. Although the petition states the fee is $1,200, the fee is actually $1,500.

Petitioner states, "This application was unintentionally abandoned." 37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent petitioner's statement of delay in the petition varies from this exact language, the

statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment was not unintentional, petitioner must notify the Office.

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 2856 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

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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MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS, MI 49503

Mail Date: 04/20/2010

Applicant	: Jose Carlito Santiago	: DECISION ON REQUEST FOR
Patent Number	: 7631386	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,331	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1410** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

Mail Date: 04/21/2010

Applicant	: David Morrow	: DECISION ON REQUEST FOR
Patent Number	: 7636951	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PIERRE DESMARAIS
376 ST-ELIZABETH
CANTLEY, QC J8V 3G6 CA

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Pierre Desmarais	:	
Application No. 10/904,452	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 003-01 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 Office action mailed June 19, 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 above-identified application became abandoned on July 20, 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 3711 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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Alexandria, VA 22313-1450
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In re Application :
Randall W. Nelson
Serial No.: 10/904,467 : DECISION ON PETITION
Filed: November 11, 2004 : UNDER 37 C.F.R. § 1.48(a)

This is a decision on the petition, filed October 18, 2006, to correct inventorship under 37 C.F.R. § 1.48(a)

The petition is **DENIED.**

The, petition is denied because the Request to Correct Inventorship does not provide a signature for Jennifer Reeve Krone on the Statement pursuant to 37 C.F.R 1.48(a), page 13 of the papers submitted 10/18/06 nor does the Oath/Declaration provide a signature for Jennifer Reeve Krone.

Long V. Le
Supervisory Patent Examiner
Patent Examining Art Unit 1641

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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In re Application of	:	
Randall W. Nelson	:	
Serial No.: 10/904,467	:	DECISION ON PETITION
Filed: November 11, 2004	:	UNDER 37 C.F.R. 1.48(a)
Attorney Docket No.: 41821.0239		

This is a decision on the petition, filed May 16, 2007, to correct inventorship under 37 C.F.R. § 1.48(a).

The petition is **GRANTED**.

Therefore, the names of Peter Williams and Jennifer Reeve Krone will be added as inventors of this patent application.

Long V. Le
Supervisory Patent Examiner
Patent Examining Art Unit 1641

Gary Counts
Patent Examiner
Art Unit 1641

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SUITE 103
LEXINGTON, MA 02420

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Domenic Carito, et. al.	:	
Application No. 10/904,486	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. CAR-002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on May 22, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed July 31, 2006. A Notice of Abandonment was mailed on February 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 a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee and an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2875, 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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Director's Office
Group 3700

In re Application of : AYLWARD et al.
Appl. No.: 10/904,490
Filed: November 12, 2004
For: GREY WATER RECLAIMATION SYSTEM AND METHODS FOR PROVIDING AND OPERATING SAME

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed December 30, 2004, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled "Change in Power of Attorney" and "Miscellaneous Incoming Letter", filed November 30, 2004, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been authorized to be charged.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file. In as much as papers cannot be physically expunged from the Image File Wrapper (IFW) file or returned to petitioner, they have been marked as "improper documents which should not have been entered" are being closed to the public view.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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HARTMAN & HARTMAN, P.C.
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VALPARAISO IN 46383

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OFFICE OF PETITIONS

In re Application of	:	
Donald W. Mathews, et al.	:	
Application No. 10/904,497	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. A4-1847	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2006 and resubmitted January 15, 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 5, 2006, as required by the Notice of Allowance and Fee(s) due, mailed May 5, 2006. Accordingly, the date of abandonment of this application is August 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Amelia Au
Petitions Examiner
Office of Petitions

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ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of
Jonathan Bentwich
Application No. 10/904,505
Filed: November 14, 2004
Title of Invention: **INTEGRATED SYSTEM AND METHOD FOR TREATING DISEASE USING COGNITIVE-TRAINING AND BRAIN STIMULATION AND COMPUTERIZED MAGNETIC PHOTO-ELECTRIC STIMULATOR (CMPES)**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed September 6, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned on April 28, 2006 for failure to file a timely response to the Notice of Non-Compliant Amendment mailed March 27, 2006 which set a 30 day period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts unavoidable delay in responding to the Notice of Non-Compliant Amendment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

With regard to item (3), decisions on reviving abandoned applications on the basis of

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

Petitioner has indicated that the Post Office did not deliver the Notice and thus the application became abandoned. Instead of an unavoidable delay, the facts presented demonstrate a lack of diligence. Petitioner has not acted with diligence to ensure that the USPTO had an updated address where mail could be delivered and as a result, the Notice was returned by the United States Postal Service and, the cause of delay in responding to the Notice mailed March 27, 2006 can only be seen as an action that could have been avoided.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2461 SOUTH CLARK STREET
CRYSTAL CENTER 2, SUITE 522
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of
Jonathan Bentwich
Application No. 10/904,505
Filed: November 14, 2004

Title of Invention: **INTEGRATED SYSTEM AND METHOD FOR TREATING DISEASE USING COGNITIVE-TRAINING AND BRAIN STIMULATION AND COMPUTERIZED MAGNETIC PHOTO-ELECTRIC STIMULATOR (CMPES)**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed November 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 28, 2006 for failure to file a timely response to the Notice of Non-Compliant Amendment mailed March 27, 2006 which set a 30 day period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment. A petition to revive under 37 CFR 1.137(a) was filed

---

[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.

(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©)).

September 6, 2006 but was dismissed in a decision mailed October 23, 2006.

Comes now the instant petition to revive under the unintentional standard.

All requirements under 37 CFR 1.137(b) having been met, including the filing of a supplemental amendment on September 6, 2006, this matter is being referred to Technology Center 3766 for treatment of the amendment, as appropriate.

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 Date: 04/20/2010

Applicant	: Edward W. Conrad	: DECISION ON REQUEST FOR
Patent Number	: 7627622	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,531	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/21/2010

Applicant	: David A. Hogeboom	: DECISION ON REQUEST FOR
Patent Number	: 7584255	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,532	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1204** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

PCE INDUSTRY, INC.
ATT. CHENG-JU CHIANG JEFFERY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON, CA 92835

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NOV 28 2007
OFFICE OF PETITIONS

In re Application of	:	
Wen-Tsan Chen	:	
Application No. 10/904,544	:	DECISION GRANTING PETITION
Filed: November 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CMDP0013USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 3, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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LAWSON & WEITZEN, LLP
88 BLACK FALCON AVE
SUITE 345
BOSTON, MA 02210

Mail Date: 04/21/2010

Applicant	: Eyal Bartfeld	: DECISION ON REQUEST FOR
Patent Number	: 7647617	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1247** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MATTHEW J. BOOTH & ASSOCIATES, PLLC
P.O. BOX 50010
AUSTIN, TX 78763-0010

In re application of:
Gilbert A. Amine
Application No. 10/904,584
Filed: November 17, 2004
For: A DUAL MODE SET-TOP BOX THAT OPTIMIZES THE DELIVERY AND USER SELECTION OF AUDIO OR VIDEO PROGRAMMING OVER DATA NETWORKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on May 19, 2005

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 23309 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Norman Klugman
Rochelle Communications, Inc.
P.O. Box 141189
Austin, TX 78714

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 05/19/2010

Applicant	: Carl Lauryssen	: DECISION ON REQUEST FOR
Patent Number	: 7621916	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/904,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **685** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DON E. ERICKSON
LAW OFFICE
STE. 104 #627
7668 EL CAMINO REAL
LA COSTA CA 92009

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OFFICE OF PETITIONS

In re Application of :
Bush, Trent Eric :
Application No. 10/904,632 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 42329-0019 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed March 7, 2006, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 8, 2006. A Notice of Abandonment was mailed September 26, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks item (1). The response submitted with the instant petition is not a proper reply to the restriction requirement. Petitioner is advised that for the reply to the requirement to be complete, it must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention. If petitioner disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. In requesting reconsideration, the petitioner must still 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.

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 request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

LYNN S. CASSAN
307 GILMOUR STREET
OTTAWA, ON K2P 0P7
CANADA

---

[2] See MPEP 711.03(c)(III)(C) and (D).

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LAW OFFICE
STE. 104 #627
7668 EL CAMINO REAL
LA COSTA CA 92009

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OFFICE OF PETITIONS

In re Application of	:	
Bush, Trent Eric	:	
Application No. 10/904,632	:	ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. 42329-0019	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 16, 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 examinations 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

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Alexandria, VA 22313-1450
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SHYAM K. GUPTA
BIODERM RESEARCH
5221 E. WINDROSE DRIVE
SCOTTSDALE AZ 85254

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APR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Shyam K. Gupta	:	
Application No. 10/904,665	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. N/A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 30, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant declaring that he/she is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1611 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

AKZO NOBEL INC.
INTELLECTUAL PROPERTY DEPARTMENT
120 WHITE PLAINS ROAD 3RD FLOOR
TARRTOWN NY 10591

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Winkel Pettersson et al.	:	
Application No. 10/904,670	:	LETTER REGARDING
Filed: November 22, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. ANO 6455	:	
US/SWE 03608	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON NOTICE OF ALLOWANCE UNDER 37 C.F.R. §1.705(d)," filed March 19, 2008. Applicants disclose that the correct initial determination of patent term adjustment pursuant to 35 U.S.C. 154(b) is two hundred seventy-six (276) days, not three hundred seventy (370) days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred seventy-six **(276)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 14, 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 370 days. Applicants disclose that they believe this is incorrect due to a 94-day applicant delay for filing a Request for Continued Examination (RCE) not being included in the Patent Term Adjustment.

With respect to the applicant delay for the filing of the RCE, applicants are correct. In response to the final Office action mailed July 20, 2007, applicants did not file an RCE until

January 22, 2008, three months and 94 days later. As such, a period of reduction of 94 days should have been entered pursuant to 37 C.F.R. §1.704(b).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is two hundred seventy-six (276) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The 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 and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PTA calculation

21	02/27/2007	MAIL NON-FINAL REJECTION	401		-1
20	02/26/2007	NON-FINAL REJECTION			
19	06/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	02/03/2005	REFERENCE CAPTURE ON IDS			
16	06/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	03/11/2005	APPLICATION RETURN FROM OIPE			
14	03/11/2005	APPLICATION RETURN TO OIPE			
13	03/11/2005	APPLICATION DISPATCHED FROM OIPE			
12	03/11/2005	APPLICATION IS NOW COMPLETE			
11	02/03/2005	ADDITIONAL APPLICATION FILING FEES			
6	02/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/23/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/10/2004	CLEARED BY OIPE CSR			
2	11/22/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304

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OFFICE OF PETITIONS

In re Application of	:	
Goinski, Michael	:	
Application No. 10/904,684	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. OCI 0254 PUS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 21, 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 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 1791 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 25,2007**

TO SPE OF : ART UNIT **2629**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/904,685** Patent No.: **6956544 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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Amare Mengistu

AMARE MENGISTU
SUPERVISORY PATENT EXAMINER

SPE

2629
Art Unit

OIPE
NOV 2 9 2004
PATENT & TRADEMARK OFFICE

White & Fudala

57 Bedford Street
Suite 103
Lexington, MA 02420
Telephone (781) 863-2041
FAX (781) 863-2250

Mark P. White

dala

FILE COPY

November 24, 2004

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-05

PETITION TO MAKE SPECIAL UNDER RULE 102 (c)
In the United States Patent and Trademark Office

In re Application of: Perlman, D. and White, M.
Filing Date: November 23, 2004
For: Stretchable Thermoplastic Labels on Cryogenic Containers
Docket No. MPW-001
Serial No. 10/904,699

Commissioner for Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450.

Petition to Make Special Under 37 C.F.R. Sec. 1.102 (c)

Dear Sir:

This is a Petition to Make Special the above-identified patent application. The basis for this petition is that one of the co-applicants is over sixty-five years of age.

In accordance with MPEP 708.02 IV, a copy of applicant Mark P. White's Massachusetts driver's license, indicating date of birth of March 20, 1935, is attached.

In view of the above, applicant requests that this Petition to Make Special be granted and the examination of the application be advanced. **Please note that this application was filed electronically on November 23, 2004.**

Respectfully submitted, on November 24, 2004

Mark P. White

Mark P. White, Reg. No. 37,757

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

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Chadwick R. Renfro	: DECISION ON REQUEST FOR
Patent Number	: 7630987	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Doan D. Pham	: DECISION ON REQUEST FOR
Patent Number	: 7588655	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **865** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEGR)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

Mail Date: 04/20/2010

Applicant	: J. Eric Tkaczyk	: DECISION ON REQUEST FOR
Patent Number	: 7583779	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,716	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRUCE E HARANG
PO BOX 872735
VANCOUVER WA 98687-2735

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APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Ignasi Ferran Palau	:	
Application No. 10/904,726	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 04282	:	

This is a decision on the papers filed via facsimile on January 14, 2005, which are properly treated as a petition under 37 C.F.R. § 1.53(e) to accord the above-identified application a filing date of November 24, 2004, with 3 sheets of drawings as part of the original disclosure.

The petition is **DISMISSED**.

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 1.53(e),". **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

Application papers in the above-identified application were filed electronically on November 24, 2004. However, on January 12, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicant filed the instant petition.

37 CFR 1.53(e)(2) states:

> Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

As set forth in 37 CFR 1.17(f), the fee for a petition to accord a filing date pursuant to 37 CFR 1.53(e) is $400.[1]

Applicant has not submitted the $400 fee or included an authorization to charge the fee to a deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] The fee went into effect on December 8, 2004.

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PO BOX 872735
VANCOUVER WA 98687-2735

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APR 1 5 2005

OFFICE OF PETITIONS

In re Application of Ignasi Ferran Palau Application No. 10/904,726 Filed: November 24, 2004 Attorney Docket No. 04282	: : : : :	DECISION ON PETITION

This is a decision on the papers filed via facsimile on January 14, 2005, which are properly treated as a petition under 37 C.F.R. § 1.53(e) to accord the above-identified application a filing date of November 24, 2004, with 3 sheets of drawings as part of the original disclosure.

The petition is **DISMISSED**.

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 1.53(e),". **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

Application papers in the above-identified application were filed electronically on November 24, 2004. However, on January 12, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicant filed the instant petition.

37 CFR 1.53(e)(2) states:

> Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

As set forth in 37 CFR 1.17(f), the fee for a petition to accord a filing date pursuant to 37 CFR 1.53(e) is $400.[1]

Applicant has not submitted the $400 fee or included an authorization to charge the fee to a deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] The fee went into effect on December 8, 2004.

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136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

Mail Date: 04/20/2010

Applicant	: Jason R. Ertel	: DECISION ON REQUEST FOR
Patent Number	: 7581885	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **845** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Paul Jallon	: DECISION ON REQUEST FOR
Patent Number	: 7651327	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Bo Vigholm, et. al.	:	
Application No. 10/904,788	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 7589.223.PCUS00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 22, 2007, to revive the above-identified application. The delay in responding is regretted.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on August 22, 2007.

The application file is being referred to Technology Center Art Unit 3611, for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously filed on February 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

In re Application of :
Pijush K. Dewanjee :
Application No. 10/904,864 :
Filed: January 31, 2005 : DECISION ON PETITION
Attorney Docket No. PU2260 :
Title: GOLF CLUB HEAD WITH A :
LASER WELDED POLYMER INSERT

This is a decision on the petition filed January 31, 2005.

On December 1, 2004, the above-identified application was deposited. On January 3, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figure 9 appeared to have been omitted. The Notice set a two-month period for response.

On January 31, 2005, Petitioner submitted a petition, along with Figure 9, payment of the petition fee[1], and a supplemental declaration. Based on the text of the petition, it is clear that Petitioner accepts the date of deposit of the formerly omitted drawing as the filing date.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of January 31, 2005**, the date of receipt of the formerly omitted item, Figure 9, using the original application papers filed December 1, 2004, as well as the figure submitted with the

1 Petitioner has indicated that the petition fee is $130. The fee for filing a petition under 37 C.F.R. §1.182 is $400.

petition on January 31, 2005. **OIPE will then mail a corrected filing receipt**.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

Mail Date: 04/26/2010

Applicant	: Jude L. Sasing	: DECISION ON REQUEST FOR
Patent Number	: 7569069	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/904,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PORT WASHINGTON WI 53074

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AUG 13 2008

In re Application of	:	
Thomas G. Yunk, et al.	:	
Application No. 10/904,887	:	DECISION GRANTING PETITION
Filed: December 2, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ITW7510.105	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 23, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
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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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

In re Application of
Stanley H. Kremen
Application No. 10/904,888
Filed: December 2, 2004
For: **SYSTEM AND METHOD FOR PRODUCING A UNIFORMLY MAGNIFIED THREE-DIMENSIONAL IMAGE OF A THREE-DIMENSIONAL SCENE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed March 24, 2005.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of the inventor's certificate of birth, which reflects a birth date of March 22, 1940, evidencing that the inventor is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file is being forwarded to the examination art unit for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7023

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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STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

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JAN 08 2009

OFFICE OF PETITIONS

In re Application of
Stanley H. Kremen
Application No. 10/904,888
Filed: December 2, 2004
Attorney Docket No. 51900-000-01-008

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fee on or before March 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2006. Accordingly, the date of abandonment of this application is March 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.

Andrea Smith
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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KENNETH C. WINTERTON
HOLLAND & HART LLP
P. O. BOX 8749
DENVER CO 80201-8749

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OFFICE OF PETITIONS

In re Application of :
Dowell et al. :
Application No. 10/904,911 :
Filed: December 3, 2004 :
Attorney Docket No. 48167.0002 :

ON PETITION

This is a decision on the petition under 37 CFR §1.102(d), filed August 23, 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 the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3624 for expedited prosecution.

Liana Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

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Paper No.

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

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DEC 23 2008

In re Application of	:	
Stanley Kremen	:	DECISION ON PETITION
Application No. 10/904,917	:	
Filed: December 5, 2004	:	
Atty Docket No. 51900-000	:	
-01-009	:	

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 July 11, 2008. This decision is made in light of the amendment filed August 20, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 11, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was received and no extension of time was obtained. The application became abandoned on October 12, 2006. A courtesy Notice of Abandonment was mailed on March 12, 2007.

The petition includes the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. The required reply in the form of an amendment was filed on August 20, 2008.

Technology Center AU 2872 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on August 20, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 033105

MAY 16 2005

STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK, NJ 08816

In re Application of:	:	
KREMEN	:	DECISION ON PETITION
Serial No.: 10/904,920	:	TO MAKE SPECIAL
Filed: December 06, 2004	:	
For: **MAGNETIC OF FORMING A THREE-DIMENSIONAL ORTHOSCOPIC IMAGE FROM ITS PSEUDOSCOPIC IMAGE**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 24, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicant stating that he is sixty-five (65) years of age or more, and a copy his birth certificate.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

CHENBRO MICOM CO., LTD.
PO BOX 108-00403
TAIPEI, TAIWAN

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Feng-Ming Chen :
Application No. 10/904,922 : DECISION ON PETITION
Filed: December 6, 2004 :

This is a decision on the petition filed April 13, 2007 in 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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed November 9, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on February 10, 2006.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1500.00. If applicant can qualify as a "small entity," as is claimed in the present petition, and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated ($750.00). See 37 CFR 1.27.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

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 Christopher Bottorff at (571)272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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TAIPEI, TAIWAN

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NOV 0 8 2007

OFFICE OF PETITIONS

In re Application of
Feng-Ming CHEN
Application No. 10/904,922
Filed: December 6, 2004

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due ("Notice"), mailed November 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 10, 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 a corrected formal drawing; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of November 9, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Publications.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED
MAR 15 2010

In re Application of	:	
Eric Schneider	:	
Application No. 10/904,943	:	DECISION ON PETITION
Filed: December 6, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 93778	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the Amendment submitted 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 applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 2454 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the non-provisional applications set forth in the Amendment filed December 4, 2009, and for consideration of the RCE filed January 15, 2010.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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
10/904,943	12/06/2004	2454	2167	93778	20	4

CONFIRMATION NO. 1943

CORRECTED FILING RECEIPT

22242
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

OC000000040469643

Date Mailed: 03/08/2010

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)

Eric Schneider, University Heights, OH;

Power of Attorney: The patent practitioners associated with Customer Number 22242

Domestic Priority data as claimed by applicant

This application is a DIV of 09/598,134 06/21/2000 PAT 6,895,430
which is a CIP of 09/525,350 03/15/2000 PAT 6,338,082
and is a CIP of 09/532,500 03/21/2000 PAT 7,136,932
and claims benefit of 60/160,125 10/18/1999
and claims benefit of 60/157,075 10/01/1999
and claims benefit of 60/143,859 07/15/1999

Foreign Applications

If Required, Foreign Filing License Granted: 01/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/904,943**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD, PRODUCT, AND APPARATUS FOR ENHANCING RESOLUTION SERVICES, REGISTRATION SERVICES, AND SEARCH SERVICES

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 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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VENABLE, CAMPILLO, LOGAN & MEANEY, P.C.
1938 E. OSBORN RD
PHOENIX, AZ 85016-7234

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Dan Pool :
Application No. 10/904,962 : DECISION ON PETITION
Filed: December 7, 2004 :
Title: Utility Knife With Cam Clamp :
Means

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed October 27, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 28, 2007. A Notice of Abandonment was mailed on May 17, 2007.

This petition is hereby **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 and drawings, (2) the petition fee of $750.00, 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). Since the $510.00 extension of time fee submitted with the petition on July 19, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received

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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NOVAK, DRUCE & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Andreas Lundmark	:	
Application No. 10/904,964	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 0173.059.PCUS00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 25, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on December 26, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE, with a fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3616 for appropriate action in the normal course of business on the RCE received September 25, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

Applicant	: David U. Hillstrom	: DECISION ON REQUEST FOR
Patent Number	: 7584563	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/904,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **71** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 27 2005

Kevin G. Mierzwa
ARTZ & ARTZ, P.C.
28333 Telegraph Road, Suite 250
Southfield, MI 48034

In re application of	:	**DECISION ON PETITION**
Peter Bejin et al.	:	**TO MAKE SPECIAL**
Application No. 10/904,989	:	**(ACCELERATED**
Filed: December 08, 2004	:	**EXAMINATION)**
For: VEHICLE LOAD FLOOR		

This is in response to the petition filed on April 13, 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.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 04/25/05

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FEB 05 2007

OFFICE OF PETITIONS

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of	:	
Andrew D. Jones, et al.	:	
Application No. 10/904,996	:	DECISION ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. GDADJ01A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2006 above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed March 21, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 22, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the filing fee due to file electronically, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred back to the Office of Initial Patent Examination for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 18 2005

Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles CA 90064

In re Application of	:	
Sol Weiss	:	
Serial No.: 10/904,998	:	DECISION ON PETITION
Filed: December 8, 2004	:	
For: Attachment Devices for Surgical Instruments	:	

This is in response to applicants' petition filed January 13, 2005, 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 (571) 273-0275.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LAW OFFICES OF ALOZIE N. ETUFUGH, PLLC
30 CENTRAL PARK SOUTH, SUITE 4D
NEW YORK, NY 10019

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Gorgone	:	DECISION ON PETITION
Application No. 10/905,015	:	
Filed: December 9, 2004	:	
Atty. Dkt. No.: 217.002PT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 May 19, 2005 for failure to timely file a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 18, 2005. The Notice set a two month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition fails to satisfy item (1) set forth above. A complete reply to the Notice has not been submitted as it has been determined that fees associated with the filing of the

application remain outstanding. Specifically, there remains $75.00 due in connection with the surcharge and excess claims.

Any renewed petition must include a reply that satisfies the requirements of the Notice mailed March 18, 2005.

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) 272-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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MAY 12 2006

OFFICE OF PETITIONS

LAW OFFICES OF ALOZIE N. ETUFUGH, PLLC
30 CENTRAL PARK SOUTH, SUITE 4D
NEW YORK, NY 10019

In re Application of :
Gorgone : DECISION ON PETITION
Application No. 10/905,015 :
Filed: December 9, 2004 :
Atty. Dkt. No.: 217.002PT :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 19, 2005 for failure to timely file a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 18, 2005. The Notice set a two month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment. A petition under 37 CFR 1.137(b) was filed January 30, 2006 and dismissed March 20, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition under 37 CFR 1.137(b) has been carefully considered and found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application 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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS, MO 63102

Mail Date: 04/20/2010

Applicant	: Wing Yiu Ng	: DECISION ON REQUEST FOR
Patent Number	: 7661898	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/905,031	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

Mail Date: 04/21/2010

Applicant	: BRIAN E. BOLING	: DECISION ON REQUEST FOR
Patent Number	: 7667942	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/905,050	: OF WYETH
Filed	: 12/13/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oppedahl Patent Law Firm LLC
P O Box 5940
Dillon, CO 80435-5940

Mail Date: 04/20/2010

Applicant	: Russell L. Stein	: DECISION ON REQUEST FOR
Patent Number	: 7650835	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/905,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1415** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229-5291

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Craig Adams	:	
Application No. 10/905,105	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 105.0005	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed March 28, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirement set forth above for special status because it lack item (A). There must be an actual infringement with a device or product actually on the market or method in use. The petition does not affirmatively state that there is an infringing device or product actually on the market or method in use since the phrase, "or will soon be sold in the United States," has been included in 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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3764 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
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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229-5291

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~~APR 25 2006~~
~~OFFICE OF PETITIONS~~

In re Application of
Craig Adams
Application No. 10/905,105
Filed: December 15, 2004
Attorney Docket No. 105.0005

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed March 28, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirement set forth above for special status because it lack item (A). There must be an actual infringement with a device or product actually on the market or method in use. The petition does not affirmatively state that there is an infringing device or product actually on the market or method in use since the phrase, "or will soon be sold in the United States," has been included in 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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3764 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229

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JUN 13 2006
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In re Application of	:	
Craig Adams	:	
Application No. 10/905,105	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 105.0005	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed May 2, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **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 inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3764 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

10/905148
1745
Ben Lewis

IN THE UNITED STATES PATENT AND TRADE-MARK OFFICE

Inventor: **NOR, Jiri**

Title: **ALKALINE FUEL CELL SYSTEM**

The Commissioner for Patents
U.S. Patent and Trademark Office
220 20th Street South
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

PETITION TO ADVANCE EXAMINATION

The Inventor, **Jiri Nor**, is over 65 years of age as shown on the attached copy of his Canadian passport. Pursuant to 37 CFR §1.102(c), the Inventor requests that the examination of the enclosed application entitled:

ALKALINE FUEL CELL SYSTEM

filed herewith, be advanced out of turn.

Respectfully submitted,

Peter Eliopoulos, Agent No. 55918

Eliopoulos Intellectual Property Law
Agents for the Applicant

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 10 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOWAN INTELLECTUAL PROPERTY
1075 NORTH SERVICE ROAD WEST
SUITE 203
OAKVILLE ON L6M-2G2
CANADA

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OCT 1 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Nor	:	
Application No. 10/905,148	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 1354-02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed May 18, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on August 19, 2005. On December 13, 2005, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1745.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRACY W. DRUCE, ESQ.
NOVAK DRUCE & QUIGG LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON, DC 20005

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OCT 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Anders LARSSON	:	
Application No. 10/905,165	:	DECISION GRANTING PETITION
Filed: December 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7589.212.PCUS00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 Notice to File Missing Parts of Application (Notice) mailed January 12, 2005. 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 March 15, 2005 (March 12, 2005, the due date, was a Saturday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of January 12, 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 Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Carr & Associates
Ste. 900
9595 Wilshire Blvd.
Beverly Hills, CA 90212

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APR 08 2009

OFFICE OF PETITIONS

In re Application of Ryuji Maeda Application No. 10/905,174 Filed: December 20, 2004 Attorney Docket No. 3115-02	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of John Carr appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed on May 1, 2008. A Notice of Abandonment was mailed on February 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2416 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

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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GREGORY A. NELSON
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Jason Blyden :
Application No. 10/905,180 : ON PETITION
Filed: December 20, 2004 :
Attorney Docket No.: **9944-0** :

This is a decision on the petition filed October 23, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 5, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned August 8, 2006. Accordingly, a Notice of Abandonment was mailed December 28, 2006.

Additionally, however, 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.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 3732 for appropriate action on the amendment filed October 23, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOVAK, DRUCE AND QUIGG, LLP
(Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON, TX 77002

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Johan Larsson et al.	:	
Application No. 10/905,261	:	DECISION ON PETITION
Filed: December 22, 2004	:	
Attorney Docket No. 7589.213.PCUS00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 31, 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 January 31, 2006. A Notice of Abandonment was mailed on September 26, 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 after non-final, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3661 for appropriate action by the Examiner in the normal course of business on the reply received September 19, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN 16 2005

In re Application of	:	ap
Meir Gitelis	:	DECISION
Serial No. 10/905,262	:	ON
Filed: December 22,2004	:	PETITION
For: MECHANICAL TOOTHBRUSH	:	UNDER 708.02,VIII

This is in response to the petition filed June 6, 2005, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 15, Subclasses 22.1, and 22.2 should have been searched.

Accordingly, the petition is **DENIED.**

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

BENNETT MULLINAX, LLC
P. O. BOX 26029
GREENVILLE SC 29616-1029

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JUL 14 2005

Haim M. Factor

POB 524, Ramat Yishay 30095
ISRAEL

Tel: 972 4 9836 116 Fax: 972 4 9832 635
h_factor@netvision.net.il

US:
Phone (954) 323.8874 Fax: (206) 339.5920

14 July 2005

Commissioner for Patents
USPTO
PO Box 1450
Alexandria, VA 22313-1450
BY FAX: (703) 872-9306

Dear Sir,

This letter serves as a renewed Petition to Make Special for Accelerated Examination, the contents of which I believe will perfect the deficiency of the original Petition, filed June 6, 2005 (along with a fee of $130, as set forth in 37 CFR 1.17(h)). The original Petition was for:

Patent Application no.	10/905,262;
Title:	Mechanical Toothbrush
Docket no.	20041222;
Filing Date:	12/22/2004;
Art Unit:	1744
Examiner (to be assigned):	Mr. Mark Spisich

In a letter dated 16 June 2005, Mr. Richard Crispino (Special Program Examiner, Technology Center 1700) indicated that original Petition was found deficient in that his review indicated that Class 15, Subclasses 22.1 and 22.2 should have been searched. Although the original Petition did include a search, the subclasses noted above were not searched.

Therefore, a prior art search has now been conducted in Class 15 Subclasses 22.1 and 22.2, which include some 1,048 patents and published applications. The following are results of this search.

Broadly speaking, most electrical toothbrushes of the prior art either:

1. have bristles arranged around a circular head that either rotates or reciprocates round an axis;
2. have a head that vibrates or oscillates linearly back and forth along one direction;
3. combine fixed and moving bristles; or
4. some combination of the above.

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PAGE 2/3 * RCVD AT 7/14/2005 10:42:14 AM [Eastern Daylight Ti N (mm-ss):02-06

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUL 25 2005

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

MAR - 7 2005

MAILED

MAR 7 2005

OFFICE OF THE DIRECTOR
TC 3600

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re application of	:	**DECISION ON PETITION**
Alan J. Lang	:	**TO MAKE SPECIAL**
Application No. 10/905,275	:	**(APPLICANT'S AGE)**
Filed: December 23, 2004	:	
For: METHOD FOR FINANCING FUTURE NEEDS		

This is a decision on the petition submitted on January 11, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **DISMISSED**.

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 signed statement from the applicant. Evidence that was previously filed in the parent application is not a sufficient means of showing.

Any request for reconsideration must be filled 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 outlined above.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/03/05

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan J. LANG	:	
Application No. 10/905,275	:	DECISION ON PETITION
Filed: December 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. A8854	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed March 30, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by applicant averring that he is more than 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to BethAnne Dayoan at 571-272-3209.

All other inquiries concerning either the examination or status of the application should be directed to Technology Center 3600.

The application is being forwarded to the Technology Center Art Unit 3624 for action on the merits commensurate with this decision.

BethAnne Dayoan
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

SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
DAVEY, Mark	:	
Application No. 10/905,280	:	DECISION ON PETITION
Filed: December 23, 2004	:	TO WITHDRAW
Attorney Docket No. **45548.0100**	:	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 17, 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 David P. Nigro on behalf of all attorneys of record who are associated with customer No. 20322. 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 Mark Davey at the address indicated below.

There is an outstanding Office action mailed October 07, 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: **MARK DAVEY**
2865 E. FOX STREET
MESA, AZ 85213

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/14/08

Paper No.: _____

TO SPE OF : **Technology Center** 3681

10/905286

SUBJECT : Request for Certificate of Correction on Patent No.: 7287634 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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

C Mann
SPE

3681
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/4/08

Paper No.: —

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/905291 Patent No: 7302223 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments: There was no error in the claims of Patent No. 7,302,223. All claims were properly printed according to the claim dependencies as presented by the applicant in the amendment filed on 6/27/07. Ken Yam 9/28/08

Judy Nguyen
JUDY NGUYEN
SUPERVISORY PATENT EXAMINER
SPE

2854
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

November 5, 2008

Yoshiko Sugahara
GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW
Suite 700
Washington, DC 20036

Patent No: 7,302,223 B2
Application No: 10/905,291
Applicant: Tetsuro Kawashima
Issued: November 27, 2007
Title: **IMAGE FORMING DEVICE**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

The patent is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There was no error in the claims of the Patent. All claims were properly printed according to the claims dependences as presented by the applicant in the amendment filed on 06/27/07.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary F. Diggs
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL -1 2005

In re Application of	:	
Roger A. Hamre	:	
Serial No. 10/905,293	:	DECISION ON PETITION
Filed: December 24, 2004	:	TO MAKE SPECIAL
For: HAND HELD SERVICE TRAY	:	

Applicant's petition, filed January 14, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Peter D. Sachtjen
Mills Law Firms, PLLC
P.O. Box 1245
Cary, NC 27512-1245

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 5/5/09

TO SPE OF : ART UNIT 2167

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.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,366,734
DATED : Apr. 29, 2008
INVENTOR(S) : Gaurab Paul

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the front page, replace, the address of inventor Gaurab Paul, "Redwood Shores" with -Bangalore-

Col. 22; Line 31, replace "indicatinq" with -indicating-

Col. 22; Line 32, replace "includinq" with -including-

Col. 23, Line 55, replace "each of said RPC server" with -each of said plurality of RPC servers-

Col. 24, Lines 4-5, delete ", based on the identity of said RPC server received in said response" after the word -server-

Col. 25, Line 5, replace "arguments said" with -arguments, said-

Col. 25, Line 18, replace "server ;" with -server;-

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

MAILING ADDRESS OF SENDER:
Narendra R Thappeta
Law Firm of Naren Thappeta
#7, 1st Floor, Gulmohar Enclave
Kunadanahalli Gate, Bangalore
Karnataka560 037, INDIA

PATENT NO. 7,366,734

No. of additional copies (None)

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 5/5/09

TO SPE OF : ART UNIT 2167

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.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,366,734
DATED : Apr. 29, 2008
INVENTOR(S) : Gaurab Paul

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the front page, replace, the address of inventor Gaurab Paul, "Redwood Shores" with -Bangalore-

Col. 22; Line 31, replace "indicatinq" with -indicating-

Col. 22; Line 32, replace "includinq" with -including-

Col. 23, Line 55, replace "each of said RPC server" with -each of said plurality of RPC servers-

Col. 24, Lines 4-5, delete ", based on the identity of said RPC server received in said response" after the word -server-

Col. 25, Line 5, replace "arguments said" with -arguments, said-

Col. 25, Line 18, replace "server ;" with -server;-

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

MAILING ADDRESS OF SENDER:
Narendra R Thappeta
Law Firm of Naren Thappeta
#7, 1st Floor, Gulmohar Enclave
Kunadanahalli Gate, Bangalore
Karnataka560 037, INDIA

PATENT NO. 7,366,734

No. of additional copies (None)

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.

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NOVAK DRUCE & QUIGG, LLP
1300 EYE STREET NW
400 EAST TOWER
WASHINGTON DC 20005

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JUL 28 2006

OFFICE OF PETITIONS

Applicant: Young
Appl. No.: 10/905,315
Filing Date: December 27, 2004
Title: SYSTEM AND METHOD FOR COLLECTING DIAGNOSIS AND PRESCRIPTION DRUG INFORMATION
Attorney Docket No.: 3043.101.NPUS00
Pub. No.: US 2005/0288966 A1
Pub. Date: December 29, 2005

This is a decision on the request for a revised patent application publication under received on June 29, 2006, for the above-identified application. It is not clear if Applicant is making a request for a redacted publication under 37 CFR 1.217 or a request for republication under 37 CFR 1.221(a).

The request is DISMISSED.

Applicant requests that the application be republished.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) and the applicant did not pay the publication fee as set forth in § 1.18(d). Applicant submitted a copy of the application via EFS-Web and submissions for publication under 37 CFR 1.217 and 37 CFR 1.221 are excluded from EFS-Web according to the Legal framework for EFS-WEB.

http://www.uspto.gov/ebc/portal/efs/legal.htm

The applicant did not supply a copy of the application in compliance 37 CFR 1.217. Applicant did not file a redacted copy of the application in compliance within 16 months after the earliest effective filing date for which a benefit is sought under 37 CFR 1.217(a). Applicant also failed to comply with 37 CFR 1.217(b) and (c).

The request for republication does not comply with the electronic filing system requirements, thus republication will not take place and the processing fee will be retained. The publication fee under 37 CFR 1.18(d) was not paid

Any request for republication under 37 CFR 1.221(a), must be submitted via the old 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Eje Osterdahl, et al.	:	
Application No. 10/905,328	:	DECISION ON PETITION
Filed: December 28, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 018798-293	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 16, 2007 and amended on January 15, 2008, 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 amendment filed January 15, 2008.

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 the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3728 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/905,328	12/28/2004	3728	2900	018798-293	52	3

CONFIRMATION NO. 2328

CORRECTED FILING RECEIPT

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000027732923

Date Mailed: 01/16/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

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Roy Hansson, Molndal, SWEDEN;

Assignment For Published Patent Application

SCA HYGIENE PRODUCTS AB, Goteborg, SWEDEN

Power of Attorney: The patent practitioners associated with Customer Number 21839

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/532,952 12/30/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/905,328**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PACKAGING UNIT

Preliminary Class

206

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Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/5/07

Paper No.: _____

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/905330 Patent No.: 7168818 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes to claim 1 (proposed in the certificate of correction filed 2/1/07) result in a change in scope and thus are not approved.

The changes to the specification (proposed in the certificate of correction filed 2/7/07) are approved

Stephone B. Allen
Supervisory Patent Examiner
SPE

2872
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (04-04)
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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.
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,168,818

DATED : January 30, 2007

INVENTOR(S) : Rob Schnell

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 2, line 47, reads: "...110' each of which is mounted to the vehicle..."

It should read: "...10' each of which is mounted to the vehicle..."

Column 2, line 51 reads: "The driver side mirror system 110' comprises..."

It should read: "The driver side mirror system 10' comprises..."

MAILING ADDRESS OF SENDER:

McGarry Bair PC
171 Monroe Avenue NW
Suite 600
Grand Rapids, MI 49503

PATENT NO. 7,168,818

No. of additional copies

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.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,168,818

DATED : January 30, 2007

INVENTOR(S) : Rob Schnell

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

The last paragraph of claim 1:

It reads: "whereby the natural frequency of said first planar reflective element assembly supported by said first cantilever arm on said first base assembly is substantially less than the natural frequency of said second non-planar reflective element assembly supported by said second cantilever arm on said second base assembly."

It should read: "whereby the natural frequency of said second planar reflective element assembly supported by said second cantilever arm on said second base assembly is substantially less than the natural frequency of said first non-planar reflective element assembly supported by said first cantilever arm on said first base assembly."

MAILING ADDRESS OF SENDER:

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171 Monroe Avenue, N.W., Suite 600
Grand Rapids, Michigan 49503

PATENT NO. 7,168,818

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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.**

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AUG 1 5 2007

OFFICE OF PETITIONS

In re Patent No.	:	
7,168,818	:	
Issue Date: January 30, 2007	:	DECISION ON PETITION
Application No. 10/905,330	:	
Filed: December 28, 2004	:	
Attorney Docket No. 71486-0088	:	

This is a decision on the petition under 37 C.F.R. 1.182 filed May 24, 2007, which is properly treated as a petition under 37 C.F.R. 1.181(a)(3) asking the Director to exercise his supervisory authority and review the refusal of Certificate of Correction branch mailed April 30, 2007 to issue the requested certificate of correction.

The petition is **DENIED**.

BACKGROUND

The above identified patent, as filed December 28, 2004, contained 19 claims. Originally filed claim 1 provided:

> A vehicular rearview mirror system for a motor vehicle having a driver's side and a passenger's side, a first rearview mirror assembly attached to the driver's side, and a second rearview mirror assembly attached to the passenger's side, comprising: a first reflective element assembly for providing a rearward view along the driver's side to the operator of the vehicle, the first reflective element having a first base assembly for attaching the first reflective element assembly to the exterior of the vehicle; a second reflective element assembly for providing a rearward view along the passenger's side to the operator of the vehicle, the second reflective element assembly having a second base assembly for attaching the second reflective element assembly to the exterior of the vehicle; and wherein the natural frequency of the second vehicular rearview mirror assembly is less than the natural frequency of the first vehicular rearview mirror assembly.

Originally filed claims 5, 9, 14, and 18 additionally provided:

> The vehicular rearview mirror system of claim 4 wherein the natural frequency of the first reflective element assembly is at least 60 Hz and the natural frequency of the second reflective element assembly is less than 60 Hz.

Thus, independent claim 1 and dependent claims 5, 9, 14, and 18 each required the natural frequency associated with the passenger's side rearview mirror assembly and reflective element to be less than the natural frequency associated with the driver's side rearview mirror assembly and reflective element.

On May 23, 2006 the examiner's first office action was mailed in which originally filed claims 1-19 were rejected under 35 USC 103 as obvious over the admitted prior art in view of Nielson US 2003/0086191. In particular, the examiner noted that from the teachings of Nielson

> "it would have been obvious to the ordinarily skilled artisan at the time of invention to replace one of the vehicular mirrors, e.g. the passenger's side mirror, with Nielsen's mirror as per Nielsen's suggestion in order to enable remote adjustment of this mirror. In such a combination, since the passenger's side mirror assembly, including the base, is made of plastic, it has a <u>lesser</u> natural frequency and is more resilient than the driver's side mirror assembly (which is made of metal)." (emphasis added)

To overcome this rejection, claims 1 and 11-19 were canceled and claim 20 was added in the amendment filed August 23, 2006. New claim 20 was the sole independent claim and provided:

> A vehicular rearview mirror system for a motor vehicle having a driver's side and a passenger's side, comprising:
>
> a first rearview mirror assembly attached to the driver's side for providing a rearward view along the driver's side to the operator of the vehicle, a first planar reflective element assembly comprising a first planar reflective element, a first base assembly fabricated of a first material having a first modulus of elasticity for attaching the first planar reflective element assembly to the exterior of the vehicle, and a first cantilever arm coupling the first planar reflective element assembly to the first base assembly;
>
> a second rearview mirror assembly attached to the passenger's side for providing a rearward view along the passenger's side to the operator of the vehicle, a second non-planar reflective element assembly comprising a second non-planar reflective element, a second base assembly fabricated of a second material having a second modulus of elasticity for attaching the second non-planar reflective element assembly to the exterior of the vehicle, and a second cantilever arm coupling the second non-planar reflective element assembly to the second base assembly;
>
> wherein said second modulus of elasticity is substantially less than said first modulus of elasticity; and

> whereby the natural frequency of said first planar reflective element assembly supported by said first cantilever arm on said first base assembly is substantially less than the natural frequency of said second non-planar reflective element assembly supported by said second cantilever arm on said second base assembly.

Thus, sole independent claim 20 required the natural frequency associated with the driver's side rearview mirror (first planar reflective element assembly) to be less than the natural frequency associated with the passenger's side rearview mirror (second non-planar reflective element assembly). That is, the order of the driver's side (first) and passenger's side (second) were reversed in claim 20 from the order presented in the rejected claims.

In the "Remarks/Arguments" section of the amendment filed August 23, 2006, Applicant asserted that

> "Nielsen '191 lacks the claimed subject matter of claim 20. The Examiner's asserted modification of the prior art exclusive of Nielsen '191 also lacks the claimed subject matter of claim 20. Thus, claim 20 is patentable over the prior art, alone and in combination with Nielsen '191. Applicant requests the allowance of claim 20."

The amended claims were allowed on September 22, 2006. In the Statement of Reasons for Allowance, the examiner explained that independent claim 20 was allowed, in part, because it requires:

> "the natural frequency of the first planar reflective element assembly supported by the first arm on the first base to be substantially less than the natural frequency of the second non-planar reflective element assembly supported by the second arm on the second base assembly as claimed. Although Nielsen of record discloses a replacement mirror to comprise a plastic base component, which could result in a lower modulus of elasticity for the second base, the claimed combination noted above cannot be said to be taught or suggested by this reference (or by the disclosed admission of prior art)."

As evident by the reasons for allowance, the order of the "first" and "second" elements was important to the allowance of the claims since "the claimed combination" cited by the examiner included a first element with a natural frequency that is less than the natural frequency of the second element.

Moreover, the Statement of Reasons for Allowance was concluded by noting that:

> "[A]ny comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

No such comment was filed prior to the payment of the issue fee.

The patent issued on January 30, 2007, with claims 2-10 and 20 printed with limitations exactly as allowed by the examiner, *i.e.*, exactly as they had been drafted by applicant and presented on amendment. In the printed patent, claim 20 was renumbered as claim 1 with claims 2-10 being dependent claims.

A request under 37 CFR 1.322 for a Certificate of Correction was filed February 1, 2007. This request asserted that the office erred during examination by applying an incorrect reference number to a component discussed in the specification. This error was corrected through the Certificate of Correction issued May 22, 2007. This request is not the subject of the present petition.

The present petition relates to a request under 37 CFR 1.323, also filed February 1, 2007, for another Certificate of Correction. This request indicates that amended claim 20 (patented claim 1) was incorrectly drafted to call for the first assembly to have a natural frequency less than the natural frequency of the second assembly. According to the request, this mistake was due to an "oversight" by Applicant.

In a decision dated April 30, 2007, Certificate of Corrections Branch refused the requested correction to patented claim 1 as the requested changes would result in a change in scope, based upon the examiner's determination.

The instant petition was filed May 24, 2007.

OPINION

37 CFR 1.182, by its terms applies when no other regulation speaks to the issue. Since 37 CFR 1.181(a)(3) provides for the requested supervisory review, 37 CFR 1.182 is inapposite. In any event, petitioner requests reconsideration of the refusal of Certificates of Correction Branch to issue the requested correction that seeks to reverse the order of "first" and "second" in the last clause of claim 1 from the order allowed by the examiner.

Since petitioner has failed to show that the issues herein raised are proper subject matter for a Certificate of Correction under either 35 U.S.C. § 254 or § 255, the refusal of Certificate of Correction Branch to process the requested correction will not be disturbed.

As to § 255 and its promulgating regulation 37 CFR 1.323:

This or any patent is printed in accordance with the record in the Patent and Trademark Office of the application as passed to issue by the examiner. A Certificate of Correction under 35 U.S.C. § 255 and 37 CFR 1.323 is available only for the correction of errors of a minor or clerical character, and does not extend to the correction of errors that would constitute new matter or would require reexamination. See Superior Fireplace Co. v. Majestic Products Co., 270 F.3d 1358, 60 USPQ2d 1668 (Fed. Cir. 2001); In re Arnott, 19 USPQ2d 1049, 1054 (Comm'r Pat. 1991); In re Hyman, 185 USPQ 441, 442 (Sol. Pat. 1975). Specifically, 35 U.S.C. § 255

requires, *inter alia*, that two specific and separate requirements be met prior to the issuance of a Certificate of Correction. The first requirement is that the mistake is: (1) of a clerical nature, (2) of a typographical nature, or (3) of minor character. The second requirement is that the correction must not involve changes that would: (1) constitute new matter or (2) require reexamination. See In re Arnott 19 USPQ2d at 1052; see also MPEP 1490. Petitioner's request fails on both counts to show that his failure to present an allowable claim with a passenger's side mirror system element with a natural frequency that is less than the natural frequency of a driver's side mirror system element may now be remedied by a Certificate of Correction under § 255.

In particular, it is not seen, and petitioner has not shown, that there is an error of a clerical nature, or of a typographical nature, or of minor character, present. What petitioner now proposes, in the guise of a Certificate of Correction is to present a claim to subject matter that was never examined by the examiner, was never passed to issue by the examiner, and was never given patent protection by the USPTO. As observed in Superior 60 USPQ2d 1668 at 1676: "clerical or typographical mistakes are generally understood to include simple mistakes such as obvious misspellings that are immediately apparent. Upon viewing such a misspelling, there is no doubt that a mistake, indeed a clerical or typographical mistake, has occurred." Also, "[a]bsent very unique and unusual circumstances, a clerical or typographical mistake should be manifest from the contents of the file of the patent sought to be corrected." See In re Arnott at 1053. Here, however, the contents of the file do not manifestly show that the mistake was merely clerical or typographical. Rather, the record suggests that the mistake was introduced by amendment in an intentional attempt to overcome the prior art.

The examiner rejected an arrangement in which the natural frequency associated with a "second" mirror assembly and "second" reflective element is less than the natural frequency associated with a "first" mirror assembly and "first" reflective element. In overcoming this rejection, the claim was amended to recite, in part, that the natural frequency associated with "first" reflective element is less than the natural frequency associated with the "second" reflective element. Although an arrangement in which the "first" natural frequency is less than the "second" natural frequency was not supported by the original disclosure and was arguably impossible, as petitioner notes, the record suggests that this order was necessary to overcome the examiner's finding that an arrangement with the "second" natural frequency being less than the "first" natural frequency would have been obvious. This reordering of "first" and "second" was recognized in both the arguments to the amendment and the examiner's Statement of Reasons for Allowance as not being taught or suggested by the prior art. Indeed, an arrangement with a "first" natural frequency less than a "second" natural frequency was not found in the prior art and the claims were allowed. The examiner's Statement of Reasons for Allowance specifically cite the limitation reciting that the "first" natural frequency is less than the "second" natural frequency as a basis for allowance. Thus, reordering of "first" and "second" was necessary to overcome the prior art. The record never suggests that the arrangement of the proposed correction was allowable. A mere clerical or typographical error did not result when the claims were amended to satisfy 35 USC §§ 102 and 103 with respect to the prior art cited by the examiner. The "oversight" in drafting the amended claim involved neglecting sections of the statute other than §§ 102 and 103 to which the claim must also conform, which is not a clerical or typographical error of the type described in Superior.

Moreover, the arguments to the amendment and the examiner's Statement of Reasons for Allowance indicate that the reordering of "first" and "second" was a significant change, which, in combination with the further limitations of the claims, was not found in the prior art. However, the petition suggests that now reversing the order of "first" and "second" in the patented claim would be a minor correction that would not broaden the scope of the claim. This is not true.

MPEP § 1412.03 discusses changes that would broaden the scope of a claim in regard to reissue applications, which similarly applies to changes to a claim through a Certificate of Correction.

> "A claim in the [correction] which includes subject matter not covered by the patent claims enlarges the scope of the patent claims. For example, if any amended or newly added claim in the [correction] contains within its scope any conceivable product or process which would not have infringed the patent, then that [corrected] claim would be broader than the patent claims. Tillotson, Ltd. v. Walbro Corp., 831 F.2d 1033, 1037 n.2, 4 USPQ2d 1450, 1453 n.2 (Fed. Cir. 1987); In re Ruth, 278 F.2d 729, 730, 126 USPQ 155, 156 (CCPA 1960); In re Rogoff, 261 F.2d 601, 603, 120 USPQ 185, 186 (CCPA 1958). A claim which reads on something which the original claims do not is a broadened claim. A claim would be considered a broadening claim if the patent owner would be able to sue any party for infringement who previously could not have been sued for infringement."

Since the apparatus that would be defined by claim 1, as corrected by the proposed Certificate of Correction, would contain within its scope a product that would not have infringed patented claim 1, corrected claim 1 would be broader than patented claim 1. A mistake the correction of which broadens a claim is not a "mistake of ... minor character" subject to correction under 35 U.S.C. § 255. Superior Fireplace Co. v. Majestic Products Co., 270 F.3d 1358, 60 USPQ2d 1668 (Fed. Cir. 2001). Also, where, as here, the proposed correction broadens the scope of coverage of claim 1, and the alleged mistake in the claim is not clearly evident from the specification, drawings, and prosecution history, that is not a "mistake of a clerical or typographical nature" subject to correction under 35 U.S.C. §255. Id.

Furthermore, reexamination clearly would be required for the requested correction. The examiner determined that it would have been obvious to provide an arrangement having the natural frequency associated with a "second" mirror assembly and "second" reflective element that is less than the natural frequency associated with a "first" mirror assembly and "first" reflective element. The claims were allowed only after "first" and "second" were reversed in this arrangement, and the examiner specifically cited this new recitation in his reasons for allowance. The proposed correction presents a claim with a scope that was not previously examined or issued by the USPTO. Also, the proposed correction presents an arrangement with a second natural frequency less than a first natural frequency, which was previously considered obvious by the examiner.

In section 1 of the remarks of the present petition, Petitioner states:

> "The Examiner's argument against patentability was not grounded upon which reflective element assembly had the greater or lesser natural frequency. It was grounded only upon one of the reflective element assemblies having a lower modulus of elasticity than the other."

This is not true. The argument against patentability was grounded upon the obvious nature of the passenger's side (second) mirror assembly having a "lesser" natural frequency than the driver's side (first) mirror assembly. This was specifically indicated in the rejection of the original claims. The "modulus of elasticity" was not recited in the original claims or addressed in the argument against the patentability of those claims. Thus, contrary to Petitioner's assertion, the proposed correction would derogate from the argument against patentability. Moreover, since the claims proposed by the correction were never examined, their patentability is not clear.

Since the mistake in the patented claims is not of a clerical nature, or of a typographical nature, or of minor character, and the correction of which would require reexamination, the petition under § 255 cannot be granted.

As to § 254 and its promulgating regulation 37 CFR 1.322:

Petitoner indicated that there is uncertainty as to which of Rules 1.322 and 1.323 provided the basis for evaluation of the request for correction. The decision of Certificate of Correction Branch dated April 30, 2007 specifically referenced Rule 1.322, but the content of the decision addressed the substance of the request pursuant to Rule 1.323. Furthermore, Petitioner suggests that patented claim 1 introduces new matter, which may present a mistake by the USPTO in allowing such a claim.

Nonetheless, the decision of Certificate of Correction Branch was appropriate under both rules. The decision is consistent with the standards of Rule 1.323, as discussed above. The decision is also consistent with the standards of Rule 1.322.

In order for a proposed correction to lie under § 254 and its promulgating regulation (1.322), the requestor must show that (1) there is a mistake in the patent, that was (2) incurred through the fault of the Patent and Trademark Office, which mistake is (3) clearly disclosed by the records of the Office. See 35 U.S.C. § 254. "The Office, however, has discretion under 35 U.S.C. 254 to decline to issue a Certificate of Correction even though an Office mistake exists." See MPEP § 1480. Moreover, Superior at 1680 notes for applicants "the critical importance of reviewing claims" before the allowed claims issue. See Chef America Inc. v. Lamb-Weston Inc., 358 F.3d 1371, 1373 (Fed Cir. 2004) (quoting underlying district court decision, "[i]t is the job of the patentee, and not the court, to write patents carefully and consistently."). See also In re Lambrech, 202 USPQ 620, 621 (Comm'r Pat. 1976)(noting the duties of an Applicant in correctly prosecuting an application, "He cannot neglect this duty and then, if the Office fails to notice and correct his oversight, be relieved of the consequences by claiming Office mistake...the primary responsibility to make the insertion rests with the applicant. His failure to make it is not correctable by way of 37 CFR 1.322."

Certificate of Correction Branch, based upon the examiner's determination, noted that the requested changes would result in a change in claim scope. Such claims were not previously examined or issued by the USPTO, and involve questions of obviousness that were identified in relation to the original claims. Appropriately, Certificate of Correction Branch denied the request.

DECISION

For the reasons given above, the decision of Certificate of Correction Branch was proper in refusing the requested correction. The petition is granted to the extent that the decision of Certificate of Correction Branch has been reviewed, but is **denied** as to any modification thereof or issuance of a Certificate of Correction. While the requested correction will not be forthcoming under 35 U.S.C. §§ 254 or 255, petitioner may yet obtain relief under 35 U.S.C. § 251.

This decision may be considered a final agency action within the meaning of 5 U.S.C. § 704 for purposes of obtaining judicial review. See MPEP 1002.02. The USPTO will not further consider or reconsider this matter.

Any inquiries concerning this communication may be directed to Christopher Bottorff at (571) 272-5092.

Charles Pearson
Director, Office of Petitions

db/bh

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of	:	
Allen Fischer	:	
Application No. 10/905,331	:	DECISION GRANTING PETITION
Filed: December 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03-0722	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 October 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3726 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **February 25, 2008**

TO SPE OF : ART UNIT **2627**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/905349** Patent No.: **7266828 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- • **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The Applicant's requested changes do not change the scope of the claims.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Hoa T. Nguyen/_____2627_____

SPE Art Unit

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OFFICE OF THE DIRECTOR
TC 3600

SMITH & HOPEN PA
15950 Bay Vista Drive
Suite 220
Clearwater, FL 33760

In re application of
Robert L. Wheeler
Application No. 10/905,370
Filed: December 30, 2004
For: SELF-GENERATING AIR CUSHION VESSEL

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on January 12, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Wheeler indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

SNM/pav: 01/24/05

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kwak, et al. :
Application No. 10/905,374 :
Filed: December 30, 2004 :
Attorney Docket No. 101896-0296 :

This is a decision on the papers styled, "Petition," filed February 7, 2005, which has been treated as a petition to withdraw the "Notice of Incomplete Nonprovisional Application."

The application was submitted on December 30, 2004. However, on January 25, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that, among other things, the application was deposited without drawings.

A review of the application file indicates nine (9) drawings were submitted on December 30, 2004, as nine (9) drawings are found in the application file as filed on that date.

In view of the above, the petition is granted and the "Notice of Incomplete Nonprovisional Application" is hereby withdrawn.

The petition fee will be refunded to deposit account no. 14-1449.

This application will be returned to OIPE for further processing with a filing date of December 30, 2004.

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

UNITED STATES DEPARTMENT OF COMMERCE
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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

Mail Date: 04/21/2010

Applicant	: Laura Wagner	: DECISION ON REQUEST FOR
Patent Number	: 7587341	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/905,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.