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

S.N. 10/911563

Date Mailed : November 6, 2007
Patent No. : 7,273,152 B1
Patent Issued : September 25, 2007
Inventor(s) : Ghulam M. Khan
Title : DESK ORGANIZER

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.

A petition under C.F.R. 1.182 is required to correct the alleged error in an inventor's address, since the inventor's address is printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicant's failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

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

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916

In view of the foregoing your request in this matter is hereby denied.

Magdalene Talley
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571)270-9942

Joseph H. McGlynn
6111 Saddle Horn Dr.
Fairfax, VA 22030

mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/5/08

TO SPE OF : ART UNIT 1626 Mckane Joseph (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/911572 Patent No.: 7323433

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. _____

Thank You For Your Assistance

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

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

Comments: _____

/Joseph K. McKane/
SPE

1626
Art Unit

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

BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
James P. D'Ostilio :
Application No. 10/911,574 :
Filed: August 5, 2004 :
Attorney Docket No. 030955-006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 23, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 5, 2004, including Figures 8-13D described in the specification.

The application was filed on August 5, 2004. However, on May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 8-13D described in the specification appear to have been omitted.

In response, on May 23, 2005, the instant petition was submitted. Petitioner contends that Figures 8-13D described in the specification were originally filed on August 5, 2004. Applicant states, "In reply to the Notice of Omitted Items in a Nonprovisional Application mailed 13 May 2005, Applicant re-submits Figures 8-13D herewith together with the required fee of $400.00... as required by 37 CFR 1.17(f)." However, the re-submitted Figures are not found in the application file. Therefore, a complete review of the omitted items is not possible based on the petition as filed.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. Petitioner should submit a copy of the missing Figures (as originally submitted on August 5, 2004). No additional petition fee is required for such a request.

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.

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

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

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

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

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

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

Patent
Attorney's Docket No. 030955-006

OIPE JC73
JUL 13 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	**Mail Stop PETITION**
James P. D'Ostilio	Group Art Unit:
Application No.: 10/911,574	Examiner:
Filed: August 5, 2004	Confirmation No.: 9915
For: CERAMIC LOADED TEMPERATURE COMPENSATING TUNABLE CAVITY FILTER	

REPLY TO DECISION ON PETITION

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

Sir:

In reply to the ***Decision on Petition*** mailed 07 June 2005, Applicant re-submits Figures 8-13D herewith.

In view of the Figures submitted herewith, grant of the Petition filed 23 May 2005 is respectfully requested. As noted in the ***Decision on Petition***, no additional petition fees are required for this request.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: 13 July 2005

By: _____
M. David Ream
Registration No. 35,333

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

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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OIPE JC73
JUL 13 2005
PATENT & TRADEMARK OFFICE

BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

JUN 07 2005

OFFICE OF PETITIONS

In re Application of	:	
James P. D'Ostilio	:	
Application No. 10/911,574	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. 030955-006	:	

This is a decision on the petition under 37 CFR 1.182, filed May 23, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 5, 2004, including Figures 8-13D described in the specification.

The application was filed on August 5, 2004. However, on May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 8-13D described in the specification appear to have been omitted.

In response, on May 23, 2005, the instant petition was submitted. Petitioner contends that Figures 8-13D described in the specification were originally filed on August 5, 2004. Applicant states, "In reply to the Notice of Omitted Items in a Nonprovisional Application mailed 13 May 2005, Applicant re-submits Figures 8-13D herewith together with the required fee of $400.00... as required by 37 CFR 1.17(f)." However, the re-submitted Figures are not found in the application file. Therefore, a complete review of the omitted items is not possible based on the petition as filed.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. Petitioner should submit a copy of the missing Figures (as originally submitted on August 5, 2004). No additional petition fee is required for such a request.

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.

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

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

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

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

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

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

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

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED
SEP 12 2005
OFFICE OF PETITIONS

In re Application of	:	
James P. D'Ostilio	:	
Application No. 10/911,574	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. 030955-006	:	

This is a decision on the papers styled "Reply to Decision on Petition," filed July 13, 2005, which has been treated as a request for reconsideration of petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 5, 2004, including Figures 8-13D described in the specification.

The application was filed on August 5, 2004. However, on May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 8-13D described in the specification appear to have been omitted.

In response, on May 23, 2005, the original petition was submitted. Six (6) sheets of drawings were submitted on August 16, 2005 (originally submitted on July 13, 2005). A copy of applicant's postcard receipt that acknowledges receipt of "Drawings (Fig(s). 1-13, 13 pgs.)" on August 5, 2004, accompanied the papers. A review of the application file indicates the presence of only seven (7) sheets of drawings originally filed on August 5, 2005, with the six sheets that contain Figures 8-13D missing. It is assumed that the missing sheets of drawings containing Figures 8-13D were misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded by treasury check.

This application will be returned to OIPE for processing with a filing date of August 5, 2004, using the six (6) sheets of drawings, containing Figures 8-13D, that were submitted on August 16, 2005.

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
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MCFADDEN, FINCHAM
SUITE 606
225 METCALFE STREET
OTTAWA ONTARIO
K2P 1P9 CANADA

COPY MAILED

MAY 23 2007

OFFICE OF PETITIONS

In re Application of

MACKENZIE, M. Scott
Application No. 10/911,595
Filed: August 05, 2004
Attorney Docket No. **6938-1A**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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 Martin J. Szczepaniak on behalf of all attorneys of record who are associated with Fincham McFadden. 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.

The application became abandoned for failure to respond to the office action mailed October 02, 2006.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **M. SCOTT MACKENZIE**
28 SPRING CRESS DRIVE
OTTAWA, K2R 1A3
CANADA

cc: **ZIMAC TECHNOLOGY DEPARTMENT**
ZIMAC PROJECTION HEATING COMPANY
2655 LANCASTER ROAD
OTTAWA, ONTARIO
K1B 4L5 CANADA

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
10/911,595	08/05/2004	M. Scott MacKenzie	6938-1A

CONFIRMATION NO. 9957

OC000000023932253

Fincham McFadden
Suite 606
225 Metcalfe Street
Ottawa, ON K2P 1P9
CANADA

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

- 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

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

ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
AKAGAWA et al
Application No. 10/911,604
Filed: August 05, 2004
For: DISK ARRAY DEVICE AND
CONTROLLING METHOD THEREOF

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on July 11, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of July 11, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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

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

MAILED

NOV - 2 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
KOIFMAN, IGAL, et al :
Serial No.: 10/911,621 :
Filed: August 5, 2004 : DECISION ON PETITION
For: **DOT-GAIN CALIBRATION SYSTEM** : *ACCEPTANCE OF COLOR PHOTOGRAPHS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, August 1, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 2, 5, and 6-10 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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Saferstein et al. :
Application No. 10/911,645 : ON PETITION
Filed: August 5, 2004 :
Attorney Docket No. 079579-0141 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 18, 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on October 7, 2004. The Notice to Missing Parts 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). A reply was received on October 28, 2004. A Notice of Incomplete Reply was mailed November 5, 2004, the period of reply continued to run from the original Notice. Accordingly, this application became abandoned on December 8, 2004. A Notice of Abandonment was mailed on July 7, 2006.

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Incomplete Reply was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Notice of Incomplete Reply was not received and attesting to the fact that a review of docket records indicates the Notice of Incomplete Reply was not received. In addition a copy

of docket records has been provided. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the Notice. Since petitioner has replied with the submission of the abstract a re-mailing of the Notice is not required.

In view of the evidence presented, the holding of abandonment is vacated.

This application is being forwarded to the Office of Initial Patent Examination for further processing

Telephone inquiries concerning this matter should be directed to the undersigned 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED
DEC 11 2009
OFFICE OF PETITIONS

In re Application of
Saferstein et al.
Application No. 10/911,645
Filed: August 5, 2004
Attorney Docket No. 079579-0141

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed February 27, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to five hundred seventy-five (575) days. [1]

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred seventy-five **(575)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 5, 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

[1] It is noted that PAIR now shows that the patent term adjustment to date is 98 days. An additional period of adjustment of 166 days was entered pursuant to 37 CFR §§1.702(a)(4) and 1.703(a)(6). This decision is written in light of this additional entry with a date of May 27, 2009. However, applicants should note that the record does not support a conclusion that a notice of allowance and determination of patent term adjustment was mailed in this application on May 27, 2009. Rather, the record indicates that a request for refund was processed on that date.

identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On February 27, 2009, applicants timely submitted an application for patent term adjustment (with required fee). Applicants dispute the period of reduction of 643 days entered for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed October 7, 2004. Applicants state that the Notice of Incomplete Reply dated November 5, 2004 was never mailed. Thus, petitioner contends that the 643 days of delay should be attributed to the Office.

The record reveals that removal of the period of reduction of 643 days pursuant to 37 CFR 1.704(b) for applicant delay is appropriate. A review of the application history reveals that a complete response to the Notice to File Missing Parts was not submitted on October 28, 2004. The October 28, 2004 response failed to include an abstract pursuant to 37 CFR 1.72. However, applicants never filed a response and the application became abandoned.

Applicants were advised of the abandonment by notice mailed July 7, 2006. In response, on July 18, 2006, applicants filed a petition to withdraw the holding of abandonment. By decision mailed October 12, 2006, the holding of abandonment was withdrawn.

Under these circumstances, any period of delay should be calculated pursuant to 37 CFR 1.704(c)(4), not 1.704(b). Accordingly, the period of reduction of 643 days entered pursuant to 37 CFR 1.704(b) is being removed.

With respect to any applicant delay associated with the abandonment, 37 CFR 1.704(c)(4) provides that failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment is a failure to engage in reasonable efforts to conclude processing or examination. Further, pursuant to this rule, the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed. In this instance, the petition to withdraw the holding of abandonment was filed on July 18, 2006, which is within 2 months of the mailing of the notice of abandonment mailed July 7, 2006.

Thus, the period of reduction is zero days. Accordingly, no reduction is being entered pursuant to 37 CFR 1.704(c)(4).

Applicants are further advised that entry of a period of adjustment of 166 days for Office delay in mailing a Notice of Allowance on May 27, 2009 is incorrect. The Notice of Allowance was mailed on December 5, 2008, not May 27, 2009. The record does not support a conclusion that a further Notice of Allowance was mailed on May 27, 2009. Rather, a response to a request for refund was filed on that date. (The revised patent term adjustment indicated on the patent should include any reduction pursuant to 37 CFR 1.704(c)(10) for the filing of the request for refund after the mailing of a notice of allowance). The period of adjustment of 166 days is being removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is five hundred seventy-five (575) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Data Management so that a patent can be issued. 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 Charlema Grant at (571) 272-3215.

/nancyjohnson/

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of PTA Calculations

Day : Tuesday
Date: 12/8/2009

PALM INTRANET

Time: 14:48:02

PTA Calculations for Application: 10/911645			
Application Filing Date:	08/05/2004	PTO Delay (PTO):	741
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	643
Post-Issue Petitions:	0	Total PTA (days):	575
PTO Delay Adjustment:	477		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	12/08/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		166	
87	12/08/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	643		
76	05/27/2009	MAIL NOTICE OF ALLOWANCE	166		45
75	05/27/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
74	05/27/2009	MAIL EXAMINER'S AMENDMENT			
73	12/05/2008	ISSUE REVISION COMPLETED			
72	12/05/2008	DOCUMENT VERIFICATION			
71	12/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	11/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
69	11/14/2008	NOTICE OF ALLOWABILITY			
68	11/14/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	11/14/2008	NOTICE OF APPEAL FILED			
66	11/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
60	01/22/2009	FINISHED INITIAL DATA CAPTURE			
52	12/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
46	08/21/2008	DATE FORWARDED TO EXAMINER			
45	08/12/2008	AMENDMENT AFTER FINAL REJECTION			
44	05/14/2008	MAIL FINAL REJECTION (PTOL - 326)	23		38
43	05/12/2008	FINAL REJECTION			
39	02/01/2008	DATE FORWARDED TO EXAMINER			
38	12/21/2007	RESPONSE AFTER NON-FINAL ACTION			
37	12/21/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

36	10/03/2007	MAIL NON-FINAL REJECTION			
35	09/17/2007	NON-FINAL REJECTION			
34	06/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/21/2007	REFERENCE CAPTURE ON IDS			
32	06/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	30
31	07/02/2007	DATE FORWARDED TO EXAMINER			
30	06/21/2007	RESPONSE AFTER NON-FINAL ACTION			
29	06/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	04/10/2007	MAIL NON-FINAL REJECTION	552		-1
27	04/02/2007	NON-FINAL REJECTION			
26	03/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	03/12/2007	REFERENCE CAPTURE ON IDS			
24.7	03/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	03/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	11/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	03/08/2007	PG-PUB ISSUE NOTIFICATION			
21	02/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	10/23/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	11/08/2005	REFERENCE CAPTURE ON IDS			
18.7	11/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/17/2006	APPLICATION DISPATCHED FROM OIPE			
16	10/17/2006	APPLICATION IS NOW COMPLETE			
15	10/12/2006	ADDITIONAL APPLICATION FILING FEES		643	6
14	10/12/2006	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
13	07/07/2006	WITHDRAW PRE-EXAM ABANDON			
12	10/12/2006	MAIL-PETITION DECISION - GRANTED			
11	07/18/2006	PETITION ENTERED			

10	12/08/2004	ABANDONMENT -- DURING PREEXAM PROCESSING			
9	10/28/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	10/28/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/28/2004	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
6	10/07/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/21/2004	CLEARED BY L&R (LARS)			
4	09/20/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/20/2004	CASE CLASSIFIED BY OIPE			
2	08/27/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/05/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,645,874	:
Saferstein et al.	: DECISION ON REQUEST FOR
Issue Date: January 12, 2010	: RECONSIDERATION OF
Application No. 10/911,645	: PATENT TERM ADJUSTMENT
Filed: August 5, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 079579-0141	: TO ISSUE CERTIFICATE OF
Title: Cellulose Oxidation By	: CORRECTION
Nitrogen Dioxide In A	:
Perfluorinated Tertiary Amine	:
Solvent	:

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by an additional one thousand four hundred forty-three (1443) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 774 days (552 days + 23 days + 199 days).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 891 days (August 6, 2007 to January 12, 2010 the day of issuance of the patent.

There are two hundred twenty-two (222) days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b) (April 22, 2008 to May 14, 2008 and June 28, 2009 to January 12, 2010).

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed November 14, 2008. The reduction of 22 days commenced November 14, 2008; the date that the Notice of Appeal was filed, and ended December 5, 2008, the day the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1421 days.

The application is being forwarded to the Certificate 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 one thousand four hundred twenty-one **(1,421)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,645,874 B2

DATED : **January 12, 2010** **DRAFT**

INVENTOR(S) : Saferstein 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 774 days

Delete the phrase "by 774 days" and insert – by 1421 days--

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/23/08

TO SPE OF : ART UNIT 3738 Snow Bruce

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/941650 Patent No.: 7354411

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

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

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: _____

SPE

3738
Art Unit

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of	:	
Mark A. Behlke et al	:	
Application No. 10/911,652	:	DECISION DISMISSING PETITIONS
Filed: August 2, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 03988/1201619-US1	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 29, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional 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)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's

filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 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).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute 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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of	:	
Mark A. Behlke et al	:	
Application No. 10/911,652	:	DECISION DISMISSING PETITIONS
Filed: August 2, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 03988/1201619-US1	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional 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)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The decision mailed March 15, 2007 dismissed the petition of November 29, 2006 due to the fact the amendment filed with the petition was not acceptable since it improperly incorporates by

reference the prior-filed applications. The amendment submitted with the renewed petition is still unacceptable 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).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement to Application No. 10/377,168 is required.

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

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

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

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

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

Frances Hicks
Petition Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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INTEGRATED DNA TECHNOLOGIES, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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NOV 06 2007

OFFICE OF PETITIONS

In re Application of	:
Mark A. Behlke et al	:
Application No. 10/911,652	: DECISION ON PETITIONS
Filed: August 2, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 03988/1201619-US1	:

CORRECTED DECISION

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The decision mailed September 25, 2007 is hereby vacated as of the mail date of this decision.

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

Any questions concerning this matter may be directed to 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 1637 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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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
10/911,652	08/02/2004	1637	1035	03988/1201619-US1	36	3

CONFIRMATION NO. 2845

CORRECTED FILING RECEIPT

52276
Integrated DNA Technologies, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

OC000000026544396

Date Mailed: 10/31/2007

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

Applicant(s)

Mark A. Behlke, Coralville, IA;
Joseph A. Walder, Chicago, IL;
Jeffrey A. Manthey, Iowa City, IA;

Assignment For Published Patent Application

Integrated DNA Technologies, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 07278

Domestic Priority data as claimed by applicant

This application is a CIP of 10/377,168 02/28/2003 PAT 7,112,406
which claims benefit of 60/360,995 03/01/2002
This application 10/911,652
claims benefit of 60/492,120 08/01/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/911,652**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Methods for amplifying polymeric nucleic acids

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/23/09

TO SPE OF : ART UNIT 1637
SUBJECT : Request for Certificate of Correction for Appl. No.: 10911652
Patent No.: 7629152

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

☒ **Approved** All changes apply.

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

Denied State the reasons for denial below.

Comments: _____

/Peter Paras/
1632
SPE Art Unit

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

STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

Mail Date: 04/20/2010

Applicant	: Won-Seog Oh	: DECISION ON REQUEST FOR
Patent Number	: 7666545	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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JAN 1 4 2005

OFFICE OF PETITIONS

In re Application of: Mark T. Keating, et. al.	:	
Application No. 10/911,678	:	NOTICE
Filed: August 5, 2004	:	
Attorney Docket No. 2323-169	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to Technology Center Art Unit 1634 for examination, in due course.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PALO ALTO CA 94304

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of :
Rajinder Singh et al :
Application No. 10/911,684 : ON PETITION
Filed: August 3, 2004 :
Attorney Docket No. 064311-1557 :

This is a decision on the petition, filed June 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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Klarquist Sparkman, LLP
121 SW Salmon St
Suite 1600
Portland, OR 97204

Mail Date: 04/20/2010

Applicant	: Rajinder Singh	: DECISION ON REQUEST FOR
Patent Number	: 7589200	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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VIENNA, VA 22183

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Narayanan, et al.
Application No. 10/911,726
Filed: August 5, 2004
Attorney Docket No. 129250-002033/US

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

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 E. Curtin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 10, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on April 15, 2008. On June 20, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2181 for consideration of the response filed June 20, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/911,729	08/05/2004	Atsushi Kimura	00862.102657	8951

5514 7590 03/24/2006

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

EXAMINER
MATHEWS, ALAN A

ART UNIT	PAPER NUMBER
2851	

DATE MAILED: 03/24/2006

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

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAR 24 2006

In re Application of: KIMURA	:	
Application No. 10/911729	:	NOTICE OF WITHDRAWAL
Filed: 08/05/2004	:	FROM ISSUE
Attorney Docket No. **00862.102657**	:	UNDER 37 CFR δ 1.313
	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR δ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed 01/05/2006, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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David Newman Chartered
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Indian Head, MD 20640

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OFFICE OF PETITIONS

In re Application of
Paul Baran et al.
Application No. 10/911,736
Filed: August 4, 2004
Attorney Docket No. GBTV04US

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2007.

The request is **NOT APPROVED**.

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

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 reason set forth in the request, "[t]he undersigned attorney is retiring from the practice of law," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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

There are no pending office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Baran
83 James Avenue
Atherton, CA 94027

cc: David Baran
GOBACKTV, Inc.
937 Hamilton Avenue
Menlo Park, CA 94025

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12040 SOUTH LAKES DRIVE
SUITE 101
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OFFICE OF PETITIONS

In re Application of	:	
Itaru Gunjishima et al	:	
Application No. 10/911,745	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. 01-678	:	

This is a decision on the petition, filed October 31, 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 September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1722 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : November 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Itaru Gunjishima et al
Application No. :10/911,745
Filed :August 5, 2004

The above-identified application has been assigned Patent No. 6,964,706 and an issue date of November 15, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 15, 2005:

"All reference to Patent No. 6,964,706 to Itaru Gunjishima et al of Japan for METHOD FOR MANUFACTURING SILICON CARBIDE SINGLE CRYSTAL FROM DISLOCATION CONTROL SEED CRYSTAL appearing in the Official Gazette of November 15, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/911,747	07/27/2004	2831	860	ARC-15201-2	9	25	2

CONFIRMATION NO. 9890

CORRECTED FILING RECEIPT

OC000000014351660

25186
NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD, CA 94035-1000

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)

David A. Stewart, Santa Cruz, CA;
Daniel B. Leiser, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25186**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/779,504 02/12/2004

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 US10/911,747

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Toughened uni-piece, fibrous, reinforced, oxidization-resistant composite

Preliminary Class

174

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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OFFICE OF PATENT COUNSEL
SPAWARSYCEN, CODE 20012
53510 SILVERGATE AVE., ROOM 103
SAN DIEGO CA 92152-5765

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OFFICE OF PETITIONS

In re Application of	:
Richard L. Waters et al	:
Application No. 10/911,748	: DECISION GRANTING PETITION
Filed: July 28, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 84774	:

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of September 29, 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 Technology Center AU 2834.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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DIVISION NEWPORT
1176 HOWELL STREET
CODE 000C
NEWPORT, RI 02841

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OFFICE OF PETITIONS

In re Application of	:	
Charles H. Beauchamp et al	:	
Application No. 10/911,753	:	ON PETITION
Filed: July 30, 2004	:	
Attorney Docket No. 83464	:	

This is a decision on the petition filed December 15, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed August 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 9, 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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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: Dale C. LinneVonBerg	: DECISION ON REQUEST FOR
Patent Number	: 7659906	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,754	: 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 **1578** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: Wu Ma	: DECISION ON REQUEST FOR
Patent Number	: 7588938	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **797** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 13 2009

OFFICE OF PETITIONS

IV - SUITER SWANTZ PC LLO
14301 FNB PARKWAY , SUITE 220
OMAHA NE 68154

In re Application of	:	
Ferren, et al.	:	
Application No.10/911,819	:	DECISION DISMISSING PETITIONS
Filed: August 4, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. MR1957-1538	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional 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)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

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

It is noted that, on filing, the subject application made benefit claims to several non-provisional applications. The benefit claims are not proper because they do not provide the relationship between the subject application and the prior-filed applications to which priority is claimed and do not provide the status of the applications, i.e, whether the applications are pending, abandoned, or patented. See MPEP 201.11. The amendment filed with the renewed petition should address this matter in order to have considered the priority claims to those prior-filed non-provisional applications.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter 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 Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

In re Patent No. 7,114,213	:	
Issue Date: October 3, 2006	:	
Application No. 10/911,829	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. None	:	

This is a decision on the petition filed December 19, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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 : December 2, 2006

Patent No. : 7,089,622 B2
Inventor(s) : Sampaio
Issued : August 15, 2006
Title : **WRING MOP**
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

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

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

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

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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STEPHEN E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Patent No. 7,089,622	:	
Application No. 10/911,830	:	
Filed: August 6, 2004	:	ON PETITION
Issued: August 15, 2006	:	
Title: Wring Mop	:	

This is a decision on the petition filed December 19, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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**.

Additionally, 37 CFR 3.81(b) requires payment of a $130.00 surcharge and certificate of correction fee of $100.00, which will be charged to petitioner's deposit account as authorized on December 19, 2006.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 1, 2008

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/911,831**

Applicant(s) : Hitoshi Ohura
Application No. : 10/911,831
Filed : August 5, 2004

The above-identified application has been assigned Patent No. 7,463,623 and an issue date of December 9, 2008.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 9, 2008:

> **"All reference to Patent No. 7,463,623 to Hitoshi Ohura of Japan for GATEWAY FOR INTERNET TELEPHONE appearing in the Official Gazette of December 9, 2008 should be deleted since no patent was granted."**

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Lamont Fletcher

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Jeffrey A. Karg	: DECISION ON REQUEST FOR
Patent Number	: 7592185	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1229** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **October 02,2007**

TO SPE OF : ART UNIT **2841**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/911,847** Patent No.: **6970359 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: D. E. L. 10/17/2007

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800
SPE

2841
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/911,847 Patent No.: 6970359 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: D. E. L. 10/17/2007

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800
SPE

2841
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

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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Everitt Beers
McNichols Randick O'Dea & Tooliatos, LLP
Suite 400
5000 Hopyard Road
Pleasanton CA 94588

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of :
William B. HUBBARD, Sr. :
Application No. 10/911,857 :
Filed: 8/4/2004 :
Attorney Docket No. H0576.002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 3/7/2008 and resubmitted 4/14/2008, to revive the above-identified application, and the petition under 37 CFR 1.182, filed 4/14/2008, to expedite the former petition.

The petition under 37 CFR 1.182 is **GRANTED**.

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 Restriction Requirement mailed 5/16/2007, 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) was obtained. Accordingly, the above-identified application became abandoned on 6/17/2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of 5/16/2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Application No. 10/911,857

The person signing the petition requests a change of correspondence address to the address given in the petition. There is, however, no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3652 for appropriate action on the concurrently filed election.

David A. Bucci
Petitions Examiner
Office of Petitions

cc:
EVERITT BEERS
MCNICHOLS BEERS LLP
6600 KOLL CENTER PARKWAY, SUITE 250
PLEASANTON, CA 94566

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PETER I. BERNSTEIN
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA - SUITE 300
GARDEN CITY, NY 11530

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Phillip Branch Chappell et al	:	
Application No. 10/911,872	:	ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. PC11004C	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 7, 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 December 8, 2004.

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

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

Wan Laymon

Wan Laymon
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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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Robert Dale Gunderman Jr.	:	
Application No. 10/911,876	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. RDG-717	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to Howard J. Greenwald and all the attorneys/agents of record associated with customer No. 37282 have been revoked by the applicant of the patent application on July 20, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2614.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: ROBERT D. GUNDERMAN, JR.
PATENT TECHNOLOGIES
150 LUCIUS GORDON DRIVE, SUITE 205
WEST HENRIETTA, NY 14586

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

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 04/21/2010

Applicant	: Joseph C. Noviello	: DECISION ON REQUEST FOR
Patent Number	: 7577605	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 05/18/2010

Applicant : Joseph C. Noviello
Patent Number : 7577605
Issue Date : 08/18/2009
Application No : 10/911,879
Filed : 08/04/2004

: 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 **1348** 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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JAN 14 2005

In re Application of	:	
Gregory Fossella	:	
Serial No. 10/911,900	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO MAKE SPECIAL
For: UTILITY KNIFE	:	

Applicant's petition, filed October 4, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

George L. Greenfield, Esq.
Wolf, Greenfield & Sacks, PC
600 Atlantic Avenue
Boston, MA 02210-2206

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JUN 27 2008

June 27, 2008

In re Application of SHENDEROVA, OLGA ALEXANDER et al. Serial No.: 10/911926 Filed: August 5, 2004 For: IMAGING DEVICES AND METHODS	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.84

The request filed on August 5, 2004, for acceptance of color photographs is treated as a Petition under 37 CFR 1.84.

The Petition is GRANTED as applicant has satisfied paragraph (a)(2) and (b)(1) of 37 CFR 1.84 as required.

This application is being forwarded to the examiner for appropriate action consistent with this decision.

Ricky Mack
Supervisory Patent Examiner
Art Unit 2873

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH NC 27606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Mark J. Dolan	: DECISION ON REQUEST FOR
Patent Number	: 7651525	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Patent No. 7,125,801	:	
Application No. 10/911,939	:	
Filed: August 4, 2004	:	ON PETITION
Issued: October 24, 2006	:	
Attorney Docket No. 10873.1524US01	:	

This is a decision on the petition filed April 9, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No.

JoAnne M. Dension
DENISON & ASSOCS., PC
#2004
212 W. Washington St.
Chicago IL 60606-3487

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NOV 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Henry Wherry	:	DECISION ON
Application No. 10/911,960	:	PETITION
Filed: August 5, 2004	:	
Title: WEDGE SHAPED PLANTING	:	
TOOL AND METHOD FOR USING SAME	:	

This is a decision on the "PETITION TO REINSTATE," filed September 19, 2006, which is properly treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

The above-identified application became abandoned for failure to file a reply to the final Office action mailed November 8, 2005. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under §1.136(a). A Notice of Abandonment was mailed on July 10, 2006.

Applicants filed the instant petition on the basis that the Office failed to send the Office action mail dated November 8, 2005 to the correct address, despite the fact that a Change of Address form had been received by the USPTO.

A review of the record reveals that the change of correspondence address was of record as filed October 12, 2004. Further, the change of correspondence address was filed by a proper party. Nonetheless, the Office mailed the Office action to the former uncorrected address. It is concluded that under the

circumstances withdrawal of the holding of abandonment is warranted.

The correspondence change of address to the address which includes Suite 2004 is now of record.

In view thereof, the Notice of Abandonment mailed November 8, 2005 is **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Petitioner is given two (2) months from the mailing date of this decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Technology Center AU 3671 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for the examiner to await receipt of the Appeal Brief. (In view thereof, no re-mailing of the final Office action mailed November 8, 2005 is required).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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APR 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Alexander J. Robinson et al	:	
Application No. 10/911,963	:	DECISION GRANTING PETITION
Filed: August 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 62518/2.3	:	

This is a decision on the petition, filed February 13, 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 February 11, 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 3641 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Alexander J. Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7596900	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/911,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1034** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JUN 21 2006

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Thomas Spinelli
Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530

In re Application of: Kazuhito Nakanishi, et al.	:	
Appl. No.: 10/911,970	:	DECISION ON PETITION
Filed: August 5, 2004	:	
For: OPERATION MICROSCOPE	:	

This is a decision on the petition filed on September 14, 2005 requesting a refund of the five-month extension of time fee paid regarding an erroneous restriction requirement issued on March 4, 2005.

The petition is GRANTED.

The record shows the following:

1. On August 5, 2004, applicant made a Preliminary Amendment to cancel claims 2-25 of the current application.
2. On March 4, 2005, the examiner issued a restriction requirement for claims 1-25 without considering the Preliminary Amendment.
3. On August 18, 2005, the examiner called applicant to inform him that the Preliminary Amendment was inadvertently overlooked and that the restriction requirement was improper. The examiner indicated that he would withdraw the restriction requirement in due course.
4. On August 25, 2005, the examiner issued a new Office action which withdrew the restriction requirement as "invalid and moot" and treated the remaining claim on the merits.
5. On September 12, 2005, applicant submitted a response to the restriction requirement of March 4, 2005 and payment for a five-month extension of time fee.
6. On September 14, 2005, the current petition was filed asking for a refund of the extension of time fee.

Petitioner's Position

Petitioner is of the opinion that restriction requirement on March 4, 2005 was improper because the applicant cancelled all claims except one claim remained. If there was only one claim remained in an application, a restriction requirement should not have been given.

Therefore, a new office action on the merits should have been issued as soon as the erroneous restriction requirement was discovered.

Analysis of Application Record

A review of the record shows the examiner overlooked the Preliminary Amendment canceling claims 2-25 which rendered only one remaining claim in the application. The March 4, 2005 restriction requirement was made in error as recognized by the examiner. Subsequently, the examiner withdrew and vacated the restriction requirement. Therefore, no reply to the restriction requirement was necessary and the extension of time fee was paid by mistake. A refund for the extension of time fee of $2,160 should be allowed in accordance with 37 C.F.R. 1.26[1] (the relevant portion of which is provided below).

Conclusion

For the foregoing reasons, the relief requested by petitioner is granted. Particularly, the refund of the $2,160 extension of time fee will be granted in view of the vacated restriction requirement. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3739 for further process. Should petitioner have any further questions, he is invited to contact TC 3700 SPRE Henry Yuen at 571-272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

[1] "The Director may refund any fee paid by mistake. . ." 37. C.F.R. 1.26(a).

UNITED STATES DEPARTMENT OF COMMERCE
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ALEXANDRIA, VA 22313-1450

Date : 5/14/2010
Patent No. : 7,670,361 B2
Serial No. : 10/911,982
Inventor(s) : Nesper et al.
Issue Date : March 2, 2010
Title : **IMPLANT FOR FIXING BONE PLATES**
Doc./File No. : **BBM-124US**

Re: Reconsideration for 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 in the omission of priority data, section 119 of 35 U.S.C. requires that both a claim for priority and a certified copy of the foreign application be filed in order that a patent issue with this data. No record can be found of a certified copy of foreign application No.(**DE)101 28 917.0**. Therefore, no correction is in order here.

In view of the foregoing, your request in this matter is denied.

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, 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
ernest.white@uspto.gov

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

ecw

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9/1/09

Patent No. :7537729
Ser. No. :10/912000
Inventor(s) :Suh et al.
Issued : 5/26/09
Title : DEACTIVANT FOR DUST MITE ALLERGENS
Docket No. :

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

Fish & Richardson P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Gerald Hahn et al.
Application No. 10/912,003
Filed: August 5, 2004
Attorney Docket No. WM 149

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

This is in response to the petition filed under 37 CFR 1.47(a) on August 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 August 5, 2004, naming Gerald Hahn and Henryk Bork as joint inventors, with an oath or declaration signed only by joint inventor Hahn, and with the instant petition seeking status under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Mr. Bork.

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

Applicant lacks item (1) set forth above.

Petitioners assert that the declaration was sent to the non-signing inventor at his last known address and that he never returned an executed copy of same. Petitioner asserts further that a second mailing sent to the non-signing inventor was returned undeliverable.

While petitioner has not stated whether their claim is that Mr. Bork refuses to execute the oath or declaration or whether after diligent efforts to locate him, they've been unsuccessful based on the evidence presented, either or both arguments would fail.

The evidence presented is not sufficient to show that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The petition indicates that the declaration was sent to Mr. Bork, but doesn't indicate that the complete application was ever sent to Mr. Bork. Thus, there is no evidence to show that Mr. Bork had the benefit of reviewing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Additionally, the evidence presented is insufficient to show that Mr. Bork cannot be located, since no proof has been presented to that end either. The fact that the envelope containing the declaration was returned is not evidence that Mr. Bork no longer lives at that address. If petitioners are satisfied that because the second mailing sent was undeliverable, that Mr. Bork no longer lives at the last known address and would like to put forth the argument that Mr. Bork cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] 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. Bork such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact Mr. Bork by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Finally, if it is found that joint inventor Bork 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.

---

[1] MPEP 409.03(d).

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

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

By FAX: (703) 872-9306

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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VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

Mail Date: 04/21/2010

Applicant	: Robert A. Blanchette	: DECISION ON REQUEST FOR
Patent Number	: 7638145	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,017	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **668** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Masaki Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7618768	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **862** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Buchanan Ingersoll & Rooney PC
P.O. Box 1404
Alexandria, VA 2313-1404

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OFFICE OF PETITIONS

In re Application of

Martin J. Lopez et al.
Application No. 10/912,032
Filed: August 4, 2004
Attorney Docket No. 040358

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 29, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on April 19, 2007.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Martin Munzer**
Cygene Laboratories, Inc.
7786 Wiles Road
Coral Springs, FL 33067

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of:
BERGMAN, RUTH et al.
Application Serial No.: 10/912,034
Filed: August 05, 2004
For: **ENCODING IMAGE DATA USING MASK LOOKUP TABLE AND DECODING SUCH ENCODED IMAGE DATA**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed January 20, 2009 to correct Office action dated January 06, 2009 and reset previously set period of reply to run from the date error is corrected.

The Petition is **DISMISSED AS MOOT**.

A Notice of Allowance was mailed on April 02, 2009 in response to petition. Therefor, the request is deemed moot.

The application file has been forwarded to the Office of Publications for further processing of the Notice of Allowance.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
T.ANDO, et al.
Application No. 10/912,077
Filed: August 6, 2004
For: AN INFORMATION MANAGEMENT SYSTEM AND A METHOD THEREOF

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 04 October 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 04 October 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

SPE: D. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/8/07

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/912,097 Patent No.: 7084957

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

[signature] 2851
SPE Art Unit

00862.102557 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	
Youzou FUKAGAWA	)	Examiner: H. Nguyen
Application No.: 10/912,097	)	Group Art Unit: 2851
Filed: August 6, 2004	)	Confirmation No.: 2267
For: SCANNING EXPOSURE TECHNIQUE	)	February 26, 2007
U.S. Patent No. 7,084,957 B2	)	
Issued: August 1, 2006	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Certificate of Correction Branch

REQUEST FOR
CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323

Sir:

Patentee requests that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of U.S. Patent and Trademark Office mistakes and mistakes of a minor nature which are not the fault of the U.S. Patent and Trademark Office.

The statutory fee of $100.00 is being paid electronically. Any additional fee required by this paper may be charged to Deposit Account No. 06-1205.

Patentee's undersigned attorney may be reached in our Washington, D.C. Office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

Attorney for Patentee
Steven E. Warner
Registration No. 33,326

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
SEW/eab

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,084,957 B2

DATED : August 1, 2006

INVENTOR(S): Youzou FUKAGAWA

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

ON THE COVER PAGE:

In item "(56) **References Cited**," under "FOREIGN PATENT DOCUMENTS," the fourth-listed document "JP 2003-292921 10/2000" should read -- JP 2003-292921 8/2003 --.

In item "(57) **ABSTRACT**," line 12, "stand still" should read -- at a standstill --.

COLUMN 1:

Line 64, "in th above" should read -- in the above --.

Line 67, "(so-called a" should read -- (a so-called --.

COLUMN 3:

Line 56, "thereby," should read -- whereby --.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,084,957 B2

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New York, New York 10112-3801
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CERTIFICATE OF CORRECTION

PATENT NO. : 7,084,957 B2

DATED : August 1, 2006

INVENTOR(S): Youzou FUKAGAWA

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

COLUMN 5:

Line 45, "thereby" should read -- whereby --.
Line 60, "x-axial direction, measurement values in the" should be deleted.
Line 64, "exUR2," should read -- (exUR2, --.

COLUMN 6:

Line 2, "dym, θdθm)." should read -- dym, dθm). --.
Line 48, "an·absolute" should read -- an absolute --.

COLUMN 7:

Line 2, "in each" should read -- in each of the --.
Line 40, "show" should read -- shown --.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,084,957 B2

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CERTIFICATE OF CORRECTION

PATENT NO. : 7,084,957 B2

DATED : August 1, 2006

INVENTOR(S): Youzou FUKAGAWA

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

COLUMN 8:

Line 19, "(exUL1(i, j)," should read -- exUL1(i, j), --.
Line 39, "step 2" should read -- step S2 --.
Line 42, "step 3" should read -- step S3 --.
Line 43, "step 4" should read -- step S4 --.
Line 47, "step 5" should read -- step S5 --.
Line 49, "step 4. Step 5" should read -- step S4. Step S5 --.
Line 51, "step 6" should read -- step S6 --.
Line 53, "step 5." should read -- step S5. --.
Line 55, "step 7." should read -- step S7. --.
Line 56, "step 4" should read -- step S4 --.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,084,957 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,084,957 B2

DATED : August 1, 2006

INVENTOR(S): Youzou FUKAGAWA

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

COLUMN 9:

Line 11, "an executing" should read -- and executing --.
Line 42, "Internet.," should read -- Internet, --.
Line 43, "thereby" should read -- whereby --.
Line 46, "are realized" should read -- being realized --.

COLUMN 10:

Line 15, "stand still" should read -- at a standstill --.
Line 60, "stand still" should read -- at a standstill --.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,084,957 B2

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Gil Maoz :
Application No. 10/912,121 : ON PETITION
Filed: August 6, 2004 :
Attorney Docket No.: 1344GIL-US :

This is a decision on the petition filed May 21, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 23, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned November 25, 2005. Accordingly, the Notice of Abandonment was mailed March 3, 2006.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on May 21, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's credit card.

---

[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 2837 for appropriate action on the amendment filed May 21, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

OCT 17 2007

In re Application of TSUYOSHI YAMAMOTO Application No. 10/912124 Filed: AUGUST 6, 2004 Attorney Docket No. **03500.102973**	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 24, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Daucher et al.	:	DECISION ON PETITION
Application No. 10/912,140	:	TO WITHDRAW
Filed: August 6, 2004	:	FROM RECORD
Attorney Docket No. 5477	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed March 16, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 W. Fallow on behalf of all attorneys of record who are associated with Customer Number 26936. All attorneys/agents associated with Customer Number 26936 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ulrich Daucher at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed December 15, 2005.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc:

ULRICH DAUCHER
780 F SEASIDE COMPOUND
QUIRINO AVENUE, TAMBO
PARANAQUE, METRO MANILA
PHILIPPINES

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Wilkins, et al.	:	
Application No. 10/912,157	:	DECISION GRANTING PETITION
Filed: August 6, 2004	:	
Attorney Docket No. A7995.0001/P001-A	:	

This is a decision on the petition filed November 4, 2004, to vacate the "Notice of Omitted Items in Nonprovisional Application" (the "Notice").

The petition is **granted**.

On August 6, 2004, the above-identified application was filed. However, on October 7, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of August 6, 2004, and advising applicant that Figure 9 as described in the specification appeared to have been omitted. The notice set a non-extendable period for reply two-month period for reply.

In response, on November 4, 2004, applicant filed the present petition, a copy of Figure 9 as described in the specification, and an Office date-stamped postcard receipt acknowledging receipt of 7 sheets of the drawings, among other items.

Upon review of the record, Figure 9 was not located among the application papers. However, the evidence is convincing that the application papers deposited August 6, 2004, included Figure 9, which was subsequently misplaced by the Office. Therefore, the application, including Figure 9, was complete on filing and entitled to the presently accorded filing date of August 6, 2004, with Figure 9 as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $130.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 6, 2004, using the 7 sheets of drawings filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/05

2 Serial/Patent # 10/912,157

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition		11/4/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

~~Treasury Check~~ Credit Card

Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office Error.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Henya Mchaykin TITLE: Petitions Atty.

SIGNATURE: Henya Mchaykin PHONE: 571-272-3222

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 2/2/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

MAILED
26 MAY 2006

In re Application of
Shinichiro OHMI, et al.
Application No. 10/912,192
Filed: August 6, 2004
For: **MASTER STATION OF COMMUNICATION SYSTEM AND ACCESS CONTROL METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 19, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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MEI-LU LIN
P.O. Box 697
Fongyuan City, Taichung County 420
Taiwan ROC

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Lin :
Application No. 10/912,202 :
Filed: August 6, 2004 :
Attorney Docket No. N/A :
For: A STRUCTURE OF COMBINED DUAL SOCKETS CHRISTMAS LIGHT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed April 20, 2006. Accordingly, this application became abandoned on July 21, 2006. A Notice of Abandonment was mailed on August 23, 2006.

Applicant has submitted a proper reply in the form of the issue fee and a completed PTOL-85B, an acceptable statement of the unintentional nature of the delay in responding to the April 20, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC - 9 2004

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

: PETITION TO MAKE SPECIAL

In re Application of
Toru Kontani et al
Serial No.: 10/912,232
Filed: August 6, 2004
Attorney Docket No.: Q82925

This is in response to applicants petition filed October 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on all the claims being directed to a single invention.

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

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

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

Should there be any questions with regard to this letter please contact Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number, 703-872-9306.

Jean F Vollano

Jean F. Vollano
Special Program Examiner
Technology Center 1600

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JAN 27 2005

J. Bruce Hoofnagle
P.O. Box 370
Lisbon MD 21765-0370

In re Application of	:	
Irwin R. Berman et al	:	
Serial No.: 10/912,242	:	DECISION ON PETITION
Filed: August 6, 2004	:	
For: Applicator and Methods of Applying	:	
A Substance	:	

This is in response to applicants' petition filed September 22, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on both age and health of the applicant.

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

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

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

Esther M Kepplinger

Esther M. Kepplinger
Director,
Technology Center 3700

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JOSEPH D. KUBORN
ANDRUS, SCEALES, STARKE & SAWALL, LLP
SUITE 1100
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4178

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OFFICE OF PETITIONS

In re Application of	:	
Hatcher	:	
Application No. 10/912,269	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. 4239-00011	:	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 20, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Keisling, Pieper & Scott, PLLC
One East Center Street
Suite 217
Fayetteville, AK 72701

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JOSEPH D. KUBORN
ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE
SUITE 1100
MILWAUKEE, WI 53202-4178

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OFFICE OF PETITIONS

In re Application of	:	
Forest A. Hatcher	:	
Application No. 10/912,269	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. 4239-00011	:	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 22, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on February 7, 2007. Furthermore it is unclear as to who discharged the attorneys and authorized the transfer of the application.

The application will become abandoned for failure to timely pay the issue fee and publication fee indicated in the Notice of Allowance and Fee(s) Due mailed February 7, 2007.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEISLING, PIEPER & SCOTT, PLLC
ONE EAST CENTER STREET
SUITE 217
FAYETTEVILLE, AK 72701

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Alan K. Wolery	: DECISION ON REQUEST FOR
Patent Number	: 7636676	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LUIS M. MEDINA
3153 PRIDES CROSSING
TARPON SPRING, FL 34688

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of
Luis Marcial Medina
Application No. 10/912,324
Filed: August 5, 2004
Attorney Docket No.

ON PETITION

This is a decision in response to the petition, filed February 26, 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 April 27, 2005. A Notice of Abandonment was mailed on January 26, 2006. In response, on February 26, 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 $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3618 for consideration of the amendment filed February 26, 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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Commissioner for Patents
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JUN 20 2005

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

In re Application of LI, SHOW-MON Appl. No.: 10/912,336 Filed: August 06, 2004 For: COUPLING LOCK FOR AN ENGINE AND A BOAT HULL	**WITHDRAWAL FROM ISSUE** *37 CFR 1.313*

The above-identified application is withdrawn from issue to permit re-opening of prosecution. See 37 CFR 1.313.

The above-identified application is hereby **withdrawn from issue**.

Subsequent to the mailing of the Notice of Allowability, a new issue was discovered that was believed to pose a significant bearing on the patentability of at least one claim pending in the allowed application. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries regarding this notice should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination on the merits issues should be directed to the examiner of record, Lars Olson, at (571) 272-6685.

Robert J. Oberleitner
Director, Patent Technology Center 3600

SJM: 6/17/05

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rld

Mailed: 1-23-06

In re application of	:	
William F. Moorhead III	:	DECISION ON
Serial No. 10/912,350	:	PETITION
Filed: August 05, 2004	:	
For: REINFORCEMENT ARRAY FOR HIGH MODULUS	:	
REINFORCEMENT OF COMPOSITES	:	

This is a response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 filed on July 5, 2005.

The petition requests that the application indicated as abandoned, as set forth in the Notice of Abandonment of June 29, 2005, for failure to timely file a proper reply to the Office letter mailed November 17, 2004, be withdrawn since applicants did timely file a reply. The petition indicates that a reply was filed on February 1, 2005, which was timely.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the petitioner filed a proper reply on February 1, 2005. The evidence provided includes a facsimile transmission confirmation report and the US Patent and Trademark Office Auto-Reply Facsimile Transmission sheet, both dated February 1, 2005. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed November 17, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed February 1, 2005.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Dale M. Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7647647	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,354	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1160** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FEB 22 2007

Technology Center 2100

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of: Tadashi NUMANOI
Application No. 10/912,410
Filed: August 4, 2004
For: STORAGE SYSTEM AND A METHOD FOR DISSOLVING FAULT OF A STORAGE SYSTEM

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

This is a decision on the petition, filed 08 September 2005, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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(i);

(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 meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Mano Padmanabhan

Mano Padmanabhan
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/912415 Patent No.: 6958537

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.

Should COFC be approved

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2891
Art Unit

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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK NY 10022-7650

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
LaPasta, et al.	:	
Application No. 10/912,433	:	DECISION ON PETITION
Filed: August 4, 2004	:	TO WITHDRAW
Attorney Docket No. SKILL 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 13, 2006.

The request is **APPROVED**.

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

The request was signed by Llyod McAulay on behalf of all attorneys of record who are associated with customer No. 26418.

All attorneys/agents associated with the Customer Number 26418 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 Douglas G. LaPasta at the address indicated below.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Douglas G. LaPasta
325 Park Place
Hawley, PA 18428

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

Mail Date: 04/20/2010

Applicant	: Curt Schnarr	: DECISION ON REQUEST FOR
Patent Number	: 7664216	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: 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.

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

Paper No. None

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Alan John Kingsman et al.
Application No. 10/912,460
Filed: August 5, 2004
Attorney Docket No. 674523-2026.2
Title: RETINOIC ACID RECEPTOR BETA-2, ITS AGONISTS, AND GENE THERAPY VECTORS FOR THE TREATMENT OF NEUROLOGICAL DISORDERS

DECISION ON PETITION

This is a decision on the petition submitted on July 15, 2005, requesting that pages 122 and 123, along with Figures 9-17 be accorded a filing date of August 5, 2004, as part of the original disclosure.

On August 5, 2004, the above-identified application was filed. On May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of August 5, 2004, and advising Applicant that pages 122 and 123, along with Figures 9-17 appeared to have been omitted.

In response, on July 15, 2005, applicants filed the present petition. The petition is further accompanied by the petition fee, an amendment, the missing pages of the specification, and replacement drawings. Regarding the missing pages of the specification, Petitioner has alleged that they were included on filing. Regarding the missing drawings, Petitioner has included an explanation that Figures 9-17 were included on filing, but were not properly labeled.

The missing pages of the specification:

Petitioner has included a copy of applicants' postcard receipt acknowledging receipt of "134 pages Specification" in the United States Patent and Trademark Office (Office) on August 5, 2004.

It is noted that 129 pages of specification, have been located in the electronic file, along with 4 pages of claims and a 1 page abstract. The specification has been reviewed, and pages 122 and 123 are not present in the electronic file.

As such, it is clear that 134 pages were received on filing, and these pages were not submitted. As such, the Notice was properly mailed and will not be withdrawn.

The mislabeled Figures:

Upon review of the record, Figures 9-17 have been located among the application papers, and it is obvious that the drawings which were submitted on filing were mislabeled as a result of the applicant's filing error. Therefore, the application, including these figures, was complete on filing and entitled to a filing date of August 5, 2004. However, the Notice mailed on May 13, 2005 was correct in stating that these figures appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

The issue of continuity:

Petitioner has contended that pages 122 and 123, along with Figures 9-17 were constructively included, through incorporation by reference.

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. The Utility Patent Application Transmittal sheet indicates that the instant application is a divisional of application 10/239,804, and that the entire disclosure of the parent application is incorporated by reference.

Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition

(emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

For these reasons, the petition under 37 CFR §182 is **DISMISSED**.

The application will receive a filing date of August 5, 2004.

Pages 122 and 123 of the specification, submitted with the present petition, will not be entered. If Petitioner desires for these pages to be included, he should submit them via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

Regarding the replacement drawings submitted with the present petition, Petitioner desires for them to be included, and has properly submitted these pages via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $400 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

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

1 See MPEP 608.02(a).
2 Id.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/28/07

Paper No.: _____

TO SPE OF : **Technology Center** 2891

10/912469

SUBJECT : Request for Certificate of Correction on Patent No.: 6951779 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.

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

Comments:

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE _____ **Art Unit** 2891

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Kelly K. Kordzik
P.O. Box 50784
Dallas, TX 75201

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FEB 02 2009

OFFICE OF PETITIONS

In re Application of Andrew Matthew Theurer Application No. 10/912,492 Filed: August 5, 2004 Attorney Docket No. AUS920040236US1	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, April 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on July 22, 2008.

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

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 37CFR 1.34(a), the signature of Farhang Amini 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.

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.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2195 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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Alexandria, Virginia 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Lilian Sylvia Fernandes	: DECISION ON REQUEST FOR
Patent Number	: 7606251	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/23/2010

Applicant	: Patrick G. Ryan	: DECISION ON REQUEST FOR
Patent Number	: 7577634	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/912,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Genencor International, Inc.
925 Page Mill Road
Palo Alto CA 94034-1013

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OFFICE OF PETITIONS

In re Application of	:	
Ahele et al.	:	
Application No. 10/912512	:	
Filing or 371(c) Date: 08/05/2004	:	ON PETITION
Attorney Docket Number:	:	
GC690-C1	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 29, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 30, 2007. A Notice of Abandonment was mailed July 6, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 1751 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

SRI INTERNATIONAL
333 RAVENSWOOD AVENUE
MENLO PARK CA 94025

In re Application of	:	
VENKATARAMAN, et al.	:	
Application No. 10/912,517	:	DECISION GRANTING PETITION
Filed: August 5, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SRI/5049-2**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 20, 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 11, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

Cc: **PATTERSON & SHERIDAN LLP**
595 SHREWBURY AVE, SUITE 100
SHREWBURY, NJ 07702

---

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

Mail Date: 05/20/2010

Applicant	: Mark Brinkman	: DECISION ON REQUEST FOR
Patent Number	: 7632037	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/912,521	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: 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
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Trademark Office

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PETITION DECISION

10/28/04

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 10/912524 received on 09/13/04 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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MAR 14 2007

OFFICE OF PETITIONS

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE
SUITE 300
IRVINE CA 92618

In re Application of	:	
John Novinski, et al.	:	
Application No. 10/912,528	:	DECISION ON PETITION
Filed: August 4, 2004	:	TO WITHDRAW
Attorney Docket No. A-1624CipCon	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 29, 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 Donald E. Stout on behalf of all attorneys of record who are associated with this application.

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

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: QUEST DIAGNOSTICS INVESTMENTS INC
300 DELAWARE AVENUE
WILMINGTON, DE 19899

cc: RICHARD WARBURG
FOLEY & LARDNER, LLP
PO BOX 80278
SAN DIEGO, CA 92138

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/912,528	08/04/2004	John Novinski	A-1624CipCon

CONFIRMATION NO. 2516

OC000000022852943

OC000000022852943

33197
STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Date Mailed: 03/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2006.

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

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

OIPE IAP87
MAR 30 2007
PATENT & TRADEMARK OFFICE

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	10/912,561
	Filing Date	August 6, 2004
	First Named Inventor	Jianwei LIU
	Art Unit	1773
	Examiner Name	K. Bernatz
	Attorney Docket Number	146712005900

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

Approved 7-20-07
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 25227

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:

Attorneys of record have been discharged by the client in accordance with 37 CFR § 10.40(b)4.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Raj S. Davé, Ph.D.				
Address	Darby & Darby P.C. 1500 K Street, N.W. Suite 250				
City	Washington, D.C.	State		Zip	20005-1714
Country	USA				
Telephone	202-347-7865	Email	rdave@darbylaw.com		
Signature	Peter J. Davis Reg # 59875				
Name	Peter J. Davis	Registration No.	36,119		
Date	March 27, 2007	Telephone No.	(703) 760-7748		

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.

va-198771

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

Mail Date: 05/21/2010

Applicant	: Kyung-hoon Lee	: DECISION ON REQUEST FOR
Patent Number	: 7638610	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/912,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Patent No. 7,462,322	:
Issued: December 9, 2008	:
Application No. 10/912,574	: PATENT TERM ADJUSTMENT
Filed: August 6, 2004	:
Dkt. No.: 090900-0157	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed January 8, 2009. This matter is being properly addressed under the provisions of 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,462,322 on December 9, 2008. The patent issued with a PTA 508 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 508 days to 836 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' 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 491 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 411 days. The 491-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 6, 2004, and the patent having been issued on December 9, 2008. Patentees assert that in addition to this 491-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 411 days. Patentees acknowledge the applicant delay of 66 days. Thus, patentees assert entitlement to an overall adjustment of 836 days (491 days plus 411 days less 66 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 66 days for 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 491 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 574 days is correct. At issue is whether patentees should accrue an additional 491 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 574 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 491 days of delay in issuing the patent overlaps with the period of examination delay of 574 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.

---

[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).

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, August 6, 2004, to the date the patent issued on December 9, 2008. Prior to the issuance of the patent, 574 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 491 days for Office delay in issuing the patent overlap with the 574 days of Office delay. During that time, the issuance of the patent was delayed by 574 days. The Office did not delay 574 days and then delay an additional 491 days. Accordingly, as the 491 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 574 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

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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APR 12 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Patent No. 7,462,322	: DECISION ON APPLICATION FOR
Issued: December 9, 2008	: PATENT TERM ADJUSTMENT and
Application No. 10/912,574	: NOTICE OF INTENT TO ISSUE
Filed: August 6, 2004	: CERTIFICATE OF CORRECTION
Dkt. No.: 090900-0157	:

This is a decision on the petition filed on October 23, 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 836 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 836 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 836 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 : 7,462,322 B2

DATED : **December 9, 2008** **DRAFT**

INVENTOR(S) : Leland, 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 508 days

Delete the phrase "by 508 days" and insert – by 836 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

DANIELS, DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of
Joe Richard Fulbright, III
Application No. 10/912,579
Filed: August 5, 2004
Attorney Docket No. 1330-003

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 3, 2007.

The request is **APPROVED**.

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

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOE RICHARD FULBRIGHT, III
1216 MARTIN TAVERN ROAD
MORRISVILLE, NC 27560

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	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/912,579	08/05/2004	Joe Richard Fulbright III	1330-003

CONFIRMATION NO. 1163

OC000000024329491

26108
DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

Date Mailed: 06/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/03/2007.

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

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

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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND, TX 77406-1247

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MAY 2 7 2008

OFFICE OF PETITIONS

In re Patent No. 7,202,671	:	
Issue Date: April 10, 2007	:	
Application No. 10/912,588	:	NOTICE
Filed: August 5, 2004	:	
Patentee(s): Kurt M. Strack, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed October 4, 2007. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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8/7/09

Patent No. :7537729
Ser. No. :10/912000
Inventor(s) :Malcolm Tom McKechnie
Issued : 5/26/09
Title : DEACTIVANTS FOR DUST MITE ALLERGENS
Docket No. :

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

FREDERICK H. RABIN
FISH & RICHARDSON P.C.
P.O. BOX 1022
Minneapolis, Minnesota 55440-1022

HR

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MORRISON & FOERSTER, LLP
555 WEST 5TH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Alexander W. Tessmer	:	
Application No. 10/912,601	:	DECISION ON PETITION
Filed: August 4, 2004	:	TO WITHDRAW
Attorney Docket No. 297912005100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: TODD W. WRIGHT
RUTAN & TUCKER, LLP
611 ARTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/969,221	01/03/2008	Joseph H. Miglietta	50096.0003

CONFIRMATION NO. 1390

POWER OF ATTORNEY NOTICE

36178
LEE G. MEYER, ESQ.
MEYER & ASSOCIATES, LLC
17462 E. POWERS DRIVE
CENTENNIAL, CO 80015-3046

OC000000033126183

Date Mailed: 11/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

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

/amwise/

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

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James W. Wiegand
Suite 700
60 State Street
Boston MA 02109

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JUL 26 2006
OFFICE OF PETITIONS

Applicant: Burns
Appl. No.: 10/912,604
Filing Date: August 5, 2004
Title: APPARATUS AND METHOD FOR COMMUNICATIONS
Attorney Docket No.: PUS-1002-001
Pub. No.: US 2006/0029216 A1
Pub. Date: February 9, 2006

This is a decision on the paper requesting a corrected publication under 37 CFR 1.221(b) received on May 4, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error as the Office published the wrong drawings, as the drawings that were published are for another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on May 4, 2006, was not timely filed under 37 CFR 1.221(b).

Furthermore, the instant request does not identify a material mistake in the publication made by the office. The application was published with the drawings submitted by Applicants' representative on September 12, 2005. The drawings submitted on September 12, 2005, included the application number to the above-identified application on the transmittal letter. A

[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).

copy of the papers submitted on September 12, 2005, has been copied to the correct application file (10/989,564).

Applicant's request for a Corrected Publication on May 4, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 09 2005

TECHNOLOGY CENTER 3600

R. NEIL SUDOL
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

In re application of	:	**DECISION ON PETITION**
Robert Vago	:	**TO MAKE SPECIAL**
Application No. 10/912,608	:	**(APPLICANT'S AGE)**
Filed: August 05, 2004	:	
For: METHOD AND DEVICE FOR SUBAQUEOUS ULTRASONIC CATASTROPHIC IRRADIATION OF LIVING TISSUE		

This is a decision on the petition submitted on September 19, 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 drivers license indicating Mr. Vago 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 petitioners makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 11/03/05

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Paper No.

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Robert Vago : DECISION ON PETITION
Application No. 10/912,608 :
Filed: August 5, 2004 :
Atty Docket No. 0069317-000003:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)) filed December 13, 2006 (and resubmitted January 25, 2007).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a foreign or international application filed on August 1, 2005. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 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 indicating a projected publication date of June 14, 2007 accompanies this decision on petition.

Technology Center AU 3737 will take further action in this application in due course.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/912,608	08/05/2004	Robert Vago	0069317-000003

CONFIRMATION NO. 2181

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 03/05/2007

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

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

The projected publication date is 06/14/2007.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/912,608	08/05/2004	Robert Vago	0069317-000003

CONFIRMATION NO. 2181

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 03/05/2007

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

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

The projected publication date is 06/14/2007.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: MANNEN, et al.
Application No. 10/912,636
Filed: August 4, 2004
For: WORM GUARANTEE STORAGE 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 01 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

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

ds

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CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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SEP 0 2 2008
OFFICE OF PETITIONS

In re Application of :
Eberling, et al. :
Application No. 10/912,662 : DECISION ON PETITION
Filed: August 5, 2004 :
Attorney Docket No. 143451-1 (GP6-0021) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application No. 10/015,049.

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

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

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

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

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

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

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR 1.78(a)(3) and 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office. It should be noted that the delay in filing the priority claim is chargeable to all parties involved with the prosecution of this application and includes the assignee, the applicant and council.

The instant petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an amendment to the first sentence of the specification; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: 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
10/912,662	08/05/2004	1796	770	143541-1	20	1

CONFIRMATION NO. 4068

CORRECTED FILING RECEIPT

23413
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

OC000000031591723

Date Mailed: 08/14/2008

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

Applicant(s)

Thomas Ebeling, Evansville, IN;
Monica Martinez Marugan, Bergen op Zoom, NETHERLANDS;
Zhaohui Qu, Shanghai, CHINA;
Srinivas Siripurapu, Evansville, IN;

Power of Attorney: The patent practitioners associated with Customer Number 023413

Domestic Priority data as claimed by applicant

This application is a CIP of 10/015,049 11/12/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/912,662**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Flame retardant thermoplastic polycarbonate compositions, use, and method of manufacture thereof

Preliminary Class

524

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 Paul Walther
C/O James F. Giebeler
3755 El Camino Drive
San Bernardino CA 92404

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
William Paul Walther	:	
Application No.: 10/912668	:	ON PETITION
Filing or 371(c) Date: 08/06/2004	:	
Attorney Docket Number:	:	
Title of Invention:	:	
DRIVER ACCESSIBLE	:	
WHEELCHAIR CARRIER	:	

This is a decision on the Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 16, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 26, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 27, 2007. A Notice of Abandonment was mailed November 9, 2007.

Applicant files the present petition executed by the inventor, and includes both the petition fee and an extension of time request and fee. 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 is accepted as having been unintentionally delayed.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). Because the application is abandoned, no extensions of time are available. A refund of the extension of time fee has been scheduled via Treasury Check.

This application is being referred to Technology Center Art Unit 3782 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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

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DEC 14 2005

Technology Center 2100

In re Application of: HIRAIWA, et al.
Application No. 10/912,673
Filed: August 4, 2004
For: COMPUTER SYSTEM

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

This is a response to the petition filed 24 October 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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 24 October 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 the references is only a few sentences long, gives only a cursory description, and in most cases fails to point to specific sections of the reference (e.g., column and line numbers or paragraph numbers).

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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

ds

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SAN FRANCISCO, CA 94111-3834

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JUL 19 2006

TECHNOLOGY CENTER 2100

In re Application of: Hiraiwa, et al.
Application No. 10/912,673
Filed: August 04, 2004
For: COMPUTER SYSTEM

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

This is a decision on the Request for Reconsideration filed February 13, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on October 24, 2005, and dismissed on December 14, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Yuri Hiraiwa et al	:	
Application No. 10/912,673	:	ON PETITION
Filed: August 4, 2004	:	
Attorney Docket No. 16869V-125900US	:	

This is a decision on the petition, filed February 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 January 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) 272-3208.

The examiner of Technology Center AU 2189 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[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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MICROSOFT CORPORATION
LAW OFFICES OF RONALD M. ANDERSON
600 108TH AVENUE N.E., SUITE 507
BELLEVUE, WA 98004

COPY MAILED

DEC 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Murzanski, et al.	:	
Application No. 10/912,674	:	ON PETITION
Filed: August 4, 2004	:	
Attorney Docket No. MICR0554	:	

This is a decision on the papers styled, "Petition in Response to Notice of Omitted Items in a Nonprovisional Application," filed December 3, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 4, 2004, including Figure 4, as described in the specification.

The application was filed on August 4, 2004. However, on October 26, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice) that stated the application had been accorded a filing date, but Figure 4 as described in the specification appears to have been omitted.

In response, on December 3, 2004 the instant petition and one (1) sheet of drawings (which includes Figure 4) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "6 sheets formal drawings," on August 4, 2004. A review of the application file indicates the presence of only five (5) sheets of drawings originally filed on August 4, 2004, with the sheet containing Figure 4 missing. It is assumed that the missing sheet of drawings containing Figure 4 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on December 3, 2004 will be refunded to deposit account no. 01-1940.

This application will be returned to OIPE for processing with a filing date of August 4, 2004, using the one (1) sheet of drawings, containing Figure 4, that was submitted with the petition on December 3, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel J. Freed, et al.	:	
Application No. 10/912,690	:	DECISION ON PETITION
Filed: August 4, 2004	:	
Attorney Docket No. 37422P015	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 24, 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 June 25, 2008.

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

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2615 for appropriate action by the Examiner in the normal course of business on the reply received May 1, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 07 2006

OFFICE OF PETITIONS

Applicant: Pays et al.
Appl. No.: 10/912,702
Filing Date: August 6, 2004
Title: COSMETIC COMPOSITION COMPRISING A DISPERSION OF AT LEAST ONE WAX IN AT LEAST ONE VOLATILE OIL
Attorney Docket No.: 08048.0054
Pub. No.: US 2004/0069508 A1
Pub. Date: March 31, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 31, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claim 113, wherein "to C_{30} alkyl(meth)acrylates, coploymers of vinyl esters" is misprinted as "to C_{3-0} alkyl(meth)acrylates, coploymers of vinyl esters".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor wherein "to C_{30} alkyl(meth)acrylates, coploymers of vinyl esters" is misprinted as "to C_{3-0} alkyl(meth)acrylates, coploymers of vinyl esters" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a minor typographical error, which is clearly understandable to one of ordinary skill in the art in reading the claim. The error is clearly a typographical error as "C_{3-0}" does not mean anything and one would know it is C_{30},

[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).

as it is additionally printed correctly several times in the same claim. The mistake is a minor typographical, which does not affect the understanding of the application, as the text of specification and the claims is clearly understandable from reading the specification, as the misprinted and misplaced numeral does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LENOVO (US) IP LAW
1009 THINK PLACE
BUILDING ONE, 4TH FLOOR 4B6
MORRISVILLE, NC 27560

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Peter A. SMITH et al. :
Application No. 10/912,713 : DECISION ON PETITION
Filed: August 05, 2004 :
Attorney Docket No. **RPS920040115US1/3224P** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 09, 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 April 09, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 08, 2007. Accordingly, the date of abandonment of this application is April 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

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

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10912713 Total Records Found: 7

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/12/2008	00005764	4	1453	$1,540.00	05/09/2008	CC
05/12/2008	00000019	1	1501	$1,440.00	05/09/2008	DA 503533
05/12/2008	00000015	1	1501	-$1,400.00	05/09/2007	DA 503533
05/11/2007	00000114	1	1501	$1,400.00	05/09/2007	DA 503533
05/11/2007	00000115	1	1504	$300.00	05/09/2007	DA 503533
08/12/2004	00000046	1	8021	$40.00	08/05/2004	DA 500563
08/10/2004	00000050	1	1001	$770.00	08/05/2004	DA 500563

OIPE IAP7
MAY 0 9 2008
PATENT & TRADEMARK OFFICE

1 FW

PTO/SB/64 (11-07)
Approved for use through 11/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional) RPS920040115US1/3224P

First named inventor: Peter A. Smith, et al.

Application No.: 10/912,713 Art Unit: 3637

Filed: 08/05/2004 Examiner: Janet Marie WILKENS

Title: BEZEL RELEASE MECHANISM

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1540.00 (37 CFR 1.17(m))

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

05/12/2008 INTEFSW 00003241 10912713
01 FC:1453 1540.00 OP

B. The issue fee and publication fee (if applicable) of $ 1700.00.
☑ has been paid previously on 05/09/2007.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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
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CHANGE OF CORRESPONDENCE ADDRESS
Application

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

Application Number	10/912,713
Filing Date	08/05/2004
First Named Inventor	Peter A. Smith
Art Unit	3637
Examiner Name	Janet Marie WILKENS
Attorney Docket Number	RPS920040115US1/3224P

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

☑ The address associated with Customer Number: 53,493

OR

☐ Firm or Individual Name

Address

City	State	Zip

Country

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 30,801.

☐ 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 /Joseph A. Sawyer, Jr./

Typed or Printed Name Joseph A. Sawyer, Jr.

Date May 9, 2008	Telephone 650-493-4540

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

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

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.

/Joseph A. Sawyer, Jr./	May 9, 2008
Signature	Date
Joseph A. Sawyer, Jr.	30,801
Typed or printed name	Registration Number, if applicable
2465 E. Bayshore Road, Suite 406	650-493-4540
Address	Telephone Number
Palo Alto, CA 94303	
Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Updated PTOL-85 Issue Fee Transmittal

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

I hereby certify that this correspondence is being:

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

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

May 9, 2008	/Shana Haack/
Date	Signature
	Shana Haack
	Typed or printed name of person signing certificate

PTO/SB/47 (09-06)
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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"FEE ADDRESS" INDICATION FORM

Address to:
Mail Stop M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

- OR -

Fax to:
571-273-6500

INSTRUCTIONS: The issue fee must have been paid for application(s) listed on this form. In addition, only an address represented by a Customer Number can be established as the fee address for maintenance fee purposes (hereafter, fee address). A fee address should be established when correspondence related to maintenance fees should be mailed to a different address than the correspondence address for the application. **When to check the first box below:** If you have a Customer Number to represent the fee address. **When to check the second box below:** If you have no Customer Number representing the desired fee address, in which case a completed Request for Customer Number (PTO/SB/125) must be attached to this form. For more information on Customer Numbers, see the Manual of Patent Examining Procedure (MPEP) § 403.

For the following listed application(s), please recognize as the "Fee Address" under the provisions of 37 CFR 1.363 the address associated with:

☑ Customer Number: 53,493

OR

☐ The attached Request for Customer Number (PTO/SB/125) form.

PATENT NUMBER (if known)	APPLICATION NUMBER
	10/912,713

Completed by (check one):

☐ Applicant/Inventor

/Joseph A. Sawyer, Jr./
Signature

☑ Attorney or Agent of record 30,801 (Reg. No.)

Joseph A. Sawyer, Jr.
Typed or printed name

☐ Assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

650-493-4540
Requester's telephone number

☐ Assignee recorded at Reel _____ Frame _____

May 9, 2008
Date

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 that one signature is required, see below*.

☑ *** Total of 1 forms are submitted.**

This collection of information is required by 37 CFR 1.363. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop M Correspondence, 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

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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/21/2010

Applicant	: Andrew Joseph Alexander Gildfind	: DECISION ON REQUEST FOR
Patent Number	: 7590775	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/912,722	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PETITION DECISION

10/28/04

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 10/912733 received on 09/13/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Ai Quoc Pham	:	
Application No. 10/912,783	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO WITHDRAW
Attorney Docket No. M-15496	:	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 20, 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 Edward C Kwok on behalf of attorney/agents associated with customer number 32605. All attorneys/agents associated with customer number 32605.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted if an assignee has interest in this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ai Quoc Pham
1848 Wayne Circle
San Jose, CA 95131

cc: Evogy, Inc.
780 Montague Expressway, Suite 305
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/912,783	08/06/2004	Ai Quoc Pham	M-15496 US

CONFIRMATION NO. 3527

POWER OF ATTORNEY NOTICE

OC000000036369183

32605
Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Date Mailed: 06/08/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/20/2009.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

In re Application of		
BEZAL, JEAN-RAPHAEL et al.,	:	JUN 21 2010
Application No.: 10/912,791	:	DECISION ON
Filing or 371(c) Date: August 6, 2004	:	PETITION
Attorney Docket Number: PF030131	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) on June 15, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed January 11, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 26, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on March 26, 2010.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. Box 5312
Two Independence Way
PRINCETON NJ 08543-5312

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Miichael S. Deiss, et al.	:	
Application No. 10/912,793	:	ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. RCA 87609B Div. 2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 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 November 4 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 February 5, 2009. The Notice of Abandonment was mailed July 20, 2009.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 2424 for appropriate action on the concurrently filed amendment.

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

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APR 28 2005

OFFICE OF PETITIONS

In re Application of
Maniar & Parandoosh
Application No. 10/912,814
Filed: August 6, 2004
Attorney Docket No. 000287-006410US
For: PH-RESPONSIVE FILM FOR INTRAVAGINAL DLIVERY OF A BENEFICIAL AGENT

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

This decision is in response to the petition under 37 CFR 1.47(a), filed April 6, 2005 (certificate of mailing date April 1, 2005) and supplemented on April 8, 2005 (certificate of mailing date April 6, 2005).

The petition is granted.

Petitioner has shown that the non-signing inventor, Manoj Maniar, 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 Edward E. Davis, Manager of Intellectual Property and Assistant Secretary of SRI International, a party in interest, establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but the inventor would not sign the declaration for patent application unless he received an excessive amount of additional compensation. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MANOJ MANIAR
46750 SENTINEL DRIVE
FREMONT, CA 94539

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Maniar & Parandoosh :
Application No. 10/912,814 :
Filed: August 6, 2004 :
Attorney Docket No. 000287-006410US :
For: PH-RESPONSIVE FILM FOR INTRAVAGINAL :
DLIVERY OF A BENEFICIAL AGENT

LETTER

Dear Mr. Maniar:

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

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COMMISSIONER FOR PATENTS
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Foster, et al.	: DECISION REFUSING STATUS
Application No. 10/912,821	: UNDER 37 CFR 1.47(b)
Filed: August 6, 2004	:
Atty. Dkt. No.: MOFFAT 3.0-035	:
For: FLAMELESS BOILER	:

This decision is in response to the petition under 37 CFR 1.47(b) filed May 23, 2005.

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

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

The above-identified application was filed August 6, 2004 without an executed oath or declaration and names Robert Joseph Foster and Dorothy Foster as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed October 18, 2004. The Notice required, *inter alia*, a surcharge and an executed oath or declaration.

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

The petition fails to satisfy items (1), (2), (3), and (6) set forth above.

At to item (1), petitioners have failed to establish that the non-signing inventors received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

The affidavit of Jim Ashbaugh states that a copy of the declaration for the filing in the U.S. application for the FLAMELESS BOILER was mailed to Mr. Foster by Canadian counsel on September 29, 2004 at Mr. Foster's place of employment. The affidavit further states that Mr. Foster was asked to sign and have Mrs. Foster sign the declaration for the instant application to no avail. The affidavit further states that on December 16, 2004, Mr. Foster verbally stated that he and Mrs. Foster would not sign the declarations.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor or the legal representative of each non-signing inventor.

Petitioners have failed to establish that each inventor received a complete copy of the application papers and thereafter refused to execute the declaration. It would appear that Mr. Foster was forwarded a declaration for the instant application, and thereafter refused to execute the declaration on behalf of Mrs. Foster and himself.

There is no indication that either Mr. Foster or Mrs. Foster was presented with a complete copy of the application papers or that after having been presented with the complete application papers one or both inventors thereafter refused to execute the declaration. There is no indication that Mr. Foster has the requisite authority to accept (or refuse to accept) the application papers on behalf of Mrs. Foster. Nor is there any indication that Mr. Foster would have the requisite authority to refuse to execute the declaration on behalf of Mrs. Foster, assuming Mrs. Foster were to be presented with the application papers.

A copy of the application papers must be presented to each inventor at each inventor's last known address. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the

non-signing inventor. Statements based on hearsay, will not normally be accepted. Petitioners may elect to include copies of dated cover letters and, if available, copies of mailing receipts as evidence that each non-signing inventor was separately presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by an inventor should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of the inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioners' attention is directed to MPEP 409.03(b) for further guidance.

Any renewed petition must be accompanied by a properly executed oath or declaration.

As to item (6), petitioners have failed to present a showing that action under 37 CFR 1.47 is required to preserve the rights of the parties or to prevent irreparable damages. Irreparable damage may be established by a showing in the form of a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.

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

By mail:

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

By facsimile: (571) 273-8300

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

Petitioners have submitted $130.00 in connection with this petition. A petition under 37 CFR 1.47 is currently $200.00. Accordingly, the remaining fee due of $70.00 has been charged to Deposit Account No. 12-1095.

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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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of	:
Foster	: DECISION NOTING JOINDER AND
Application No. 10/912,821	: PETITION UNDER 37 CFR 1.47
Filed: August 6, 2004	: MOOT
Atty. Dkt. No.: MOFFAT 3.0-035	:
For: FLAMELESS BOILER	:

This decision is in response to the renewed petition under 37 CFR 1.47, filed January 13, 2006.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47 is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Steve McCanne	:	
Application No. 10/912,840	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. 019599-000811US	:	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 24, 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 Philip H. Albert and all attorneys/agents of record has been revoked by the assignee of the patent application on November 1, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: Hickman, Palermo, Truong & Becker, LLP
Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Guido Hoverstadt, et al.	:	
Application No. 10/912,867	:	DECISION ON REQUEST FOR
Filed: August 6, 2004	:	REVOCATION OF POWER
Attorney Docket No. P02104US	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed July 6, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on July 2, 2009 does not include a proper statement including a proper chain in title or a copy of the assignment.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination and status of this application should be directed to the Technology Center.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070305

DATE : March 5, 2007

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,112,677

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Thomas C. McKenzie, Ph.D. **Art Unit** 1625

SPE: R. ELMS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/4/07

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/912,929 Patent No.: 6965536

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: _____

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

7/3/07

SPE **Art Unit** 2824

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/29/2010

Applicant	: David J. Ross	: DECISION ON REQUEST FOR
Patent Number	: 7610048	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/912,940	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen R. Albainy-Jenei
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Kohn et al.	:	
Application No. 10/912,948	:	DECISION ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. 103287.0523409	:	

This is a decision on the PETITION AND AMENDMENT filed December 2, 2004. Applicants petition that the above-identified nonprovisional application be accorded a filing date of August 6, 2004. Further, applicants request that the petition fee be refunded.

The petition is **GRANTED**.

The request for refund is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on August 6, 2004. However, on September 30, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited August 6, 2004 had not been accorded a filing date because the application was deposited without drawings. (In addition, the Notice required the filing of an executed oath or declaration.)

In response, applicant filed the instant petition. Petitioner states that the drawing is not necessary for the understanding of the invention.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to 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 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, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 - 7, mailing of a Notice requiring submission of drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." To the extent that the Notice stated that the instant application is not entitled to a filing date, the "Notice of Incomplete Nonprovisional Application" mailed September 30, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of August 6, 2004.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 06-2226, as authorized.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to August 6, 2004** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Telephone inquiries specific 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
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MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

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JAN 13 2010

In re Application of	:	
Christopher K. Sortore, et al.	:	
Application No. 10/912,955	:	NOTICE
Patent No. 7,250,704	:	
Filed: August 6, 2004	:	
Attorney Docket No. 1024-006		

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 Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 03 2009

OFFICE OF PETITIONS

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

In re Application of	:	
Alfred Vasilievich IVANNIKOV et al.	:	
Application No. 10/912,970	:	DECISION ON PETITION
Filed: August 06, 2004	:	
Attorney Docket No. 0044.0001 (US-E-04)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 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 January 31, 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 $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of October 30, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3654 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.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petition

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GLOBAL LEGAL DEPARTMENT – IP
SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

JUL 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Manuela Schneider et al	:	
Application No. 10/912,991	:	ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. CM2792Q	:	

This is a decision on the petition filed July 1, 2010 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 March 9, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 10, 2010.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED
JUN 29 2010
OFFICE OF PETITIONS

Applicant: Schneider et. al.	:	DECISION ON REQUEST FOR
Patent Number: Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/913,003	:	WYETH
Filed: 08/06/2004	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Alexander Baguisi	: DECISION ON REQUEST FOR
Patent Number	: 7592503	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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SEP 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,489,807
Issued: February 10, 2009
Application No. 10/913,015
Filed: August 6, 2004
Dkt. No.: P1010D

: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed April 10, 2009. This matter is properly treated under 37 CFT 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The application for patent term adjustment has not been reviewed on the merits because the application does not appear to have been properly executed in accordance with 37 CFR 1.33(b) or 11.9.

There is no indication that the person signing the application for patent term adjustment was ever given limited recognition to represent patentees. Further, the correspondence address indicated on the application for patent term adjustment differs from that contained in the record (Customer Number 23735). As an individual with limited recognition cannot be associated with a customer number, it does not appear that the person signing the application for patent term adjustment is authorized to act on behalf of patentees. While a courtesy copy of this decision is being mailed to the person signing the application for patent term adjustment, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Office acknowledges submission of the required application fee of $200.00. See, 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

CC: Ido Rabinovitch
Mintz Leven Cohn, et al.
One Financial Center
Boston, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 20 2007

OFFICE OF PETITIONS

ALAN J. HOWARTH
P.O. BOX 1909
SANDY, UT 84091-1909

In re Application of	:	
Cheryle Ram Hart, et al.	:	
Application No. 10/913,027	:	DECISION ON PETITION
Filed: August 6, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. T10250	:	

This is a decision on the petition, filed March 20, 2007, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional application No. 60/493,103.

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1) above. The statement contained in the petition is unacceptable as an "amendment" and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a

separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

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

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

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DEC 10 2007
OFFICE OF PETITIONS

ALAN J. HOWARTH
P.O. BOX 1909
SANDY, UT 84091-1909

In re Application of
Cheryle R. Hart, et al.
Application No. 10/913,027
Filed: August 6, 2004
Attorney Docket No. T10250

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition, filed July 30, 2007, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the 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 non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1617 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

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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
10/913,027	08/06/2004	1617	1035	T10250	39	4

CONFIRMATION NO. 3845

CORRECTED FILING RECEIPT

20450
ALAN J. HOWARTH
P.O. BOX 1909
SANDY, UT 84091-1909

OC000000027092346

Date Mailed: 12/05/2007

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

Applicant(s)

Cheryle Ram Hart, Spokane, WA;
Ronald Scott Grossman, Spokane, WA;
Herbert Ram, Atlanta, GA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/493,103 08/06/2003

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 **US 10/913,027**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Dietary neurotransmitter precursors for balanced synthesis of neurotransmitters

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

2 5 MAR 2008

Jeffrey E. Yeung
834 North White Rd.
San Jose CA 95127-1024

In re Application of	:	DECISION ON
Jeffrey E. Young	:	
Application No.: 10/913,041	:	
Filing Date: 05 August 2004	:	
Priority Date: NA	:	PETITION UNDER
Attorney's Docket No.: NA	:	
For: EXPANDABLE FASTNER WITH	:	
COMPRESSIVE GRIPS	:	37 CFR 1.182

This is response to applicants' "PETITION UNDER RULE 182" filed on 01 October 2007, which requets to change the application type from 35 USC 111(a) to 35 USC 35 USC 371, which was filed 05 August 2004. The appropriate petition fee of $400.00 set forth in §1.17(h) has been paid by petitioner.

BACKGROUND

On 05 August 2004, applicant filed the aforementioned application as a utility patent application. The application was processed as filing under 35 U.S.C. §111(a) because it was sumitted with a transmittal letter as "Utility Patent Application Transmittal."

On 01 October 2007, applicants electronically filed the instant petition to convert the above application filed under 35 USC §111(a) to a national stage application filed under 35 USC §371.

DISCUSSION

U.S. statutes and regulations do not make specific provision for the requested conversion and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, petitioner has failed to make such a showing. Petitioner is advised that because international application PCT/US03/02856 designated the United States, the present application may be treated as a continuation of international application PCT/US03/02856, with no loss of priority rights, if the requirements of 35 U.S.C. 120 are met. See MPEP 1895.

Moreover, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of

the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> . . .
>
> **If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.** (Emphasis added.)

As such, any intended filing under 35 U.S.C. 371 a national stage application must clearly and unambiguously be identified as such, otherwise the submission will be treated as being filed under 35 U.S.C. 111(a). Note 37 CFR 1.494(f), 1.495(g) and MPEP 1893.03(a).

In this instance, applicant was not clear that he wanted the application to be treated as a national stage under 35 USC 371 since the transmittal letter was filed as an intended application under 35 USC 111, while the first paragraph referred to a national stage filing. Because of the conflicting instruction, the application is accepted under 35 U.S.C. 111 as filed.

CONCLUSION

The petition under 37 CFR 1.182 for the reasons noted above is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition is desired, applicant must file a request for reconsideration within a **TWO (2) MONTH** non-extendable time period from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

1 4 APR 2009

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Jeffrey E. Young
834 North White Rd.
San Jose CA 95127-1024

In re Application of	DECISION ON
Jeffrey E. Young	
Application No.: 10/913,041	
Filing Date: 05 August 2004	PETITION UNDER
Attorney's Docket No.: NA	
For: EXPANDABLE FASTNER WITH	
COMPRESSIVE GRIPS	37 CFR 1.78(a)(3)

This is in response to applicant's communication "PETITION UNDER 37 CFR 1.78(a)(3) (Petition to Accept an Unintentionally Delayed Priority Claim)" filed 12 November 2008.

BACKGROUND

In a decision from this Office on 25 March 2008, the petition under 37 CFR §1.182 was dismissed because the application was treated properly under 35 USC §111(a), and applicant could correct the priority claim under 37 C.F.R. §1.78.

On 12 November 2008, petitioner filed a petition 37 CFR 1.78(3) to claim priority under 35 USC 120 from international application PCT/US03/02856 under 37 C.F.R. §1.178(a)(3).

DISCUSSION

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 paragraph (a)(2) of this section 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)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Regarding requirement (1) a proper reference to the prior-filed international application has now been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the proper statement has been provided.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C.§§120 and 365(c) to the prior-filed international applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application will be forwarded to Technology Center Art Unit 3773 for examination.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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GUY V. MANNING
1407 TEXAS STREET
SUITE 102
FORT WORTH TX 76102

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of Daniel K. Hutchinson et al Application No. 10/913,044 Filed: August 6, 2004 Attorney Docket No. 0489M-001	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 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 November 4, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3644.

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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Patent Office of Dr. Chung S. Park
P.O. Box 62312
Sunnyvale, CA 94088-2312

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OFFICE OF PETITIONS

In re Application of

Young Kang
Application No. 10/913,083
Filed: August 6, 2004
Attorney Docket No. NEOKC-P001

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 27, 2006.

The request is **APPROVED**.

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

The request was signed by Chung S. Park on behalf of all attorneys of record who are associated with Customer No. 46513.

All attorneys/agents associated with the Customer No. 46513 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 Young Kang 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.

Terri S. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Young Kang**
1113 Andrea Drive
San Jose, CA 95117

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
10/913,083	08/06/2004	Young Kang	NEOKC-P001

CONFIRMATION NO. 3975

OC000000021073098

OC000000021073098

46513
PATENT OFFICE OF DR. CHUNG S. PARK
P. O. BOX 62312
SUNNYVALE, CA 94088-2312

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/27/2006.

- 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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3003
22100 BOTHELL EVERETT HIGHWAY
BOTHELL WA 98041-3003

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OFFICE OF PETITIONS

In re Application of :
Scott Love :
Application No. 10/913,104 : DECISION GRANTING PETITION
Filed: August 5, 2004 :
Attorney Docket No: US30325 :

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

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

For failure to timely respond to a non-Final Office Action mailed October 18, 2007, this application became abandoned on January 22, 2008. Accordingly, a Notice of Abandonment was mailed May 1, 2008, after the filing of the instant petition.

The file record discloses that the non-Final Office Action was mailed to the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner has not proferred any substantive evidence of non-receipt but a review of the file discloses that the office action was mailed to an incorrect address. It appears that on April 25, 2005 that the correspondence address was changed by the USPTO.

Petitioner argues that they never filed a revocation or power of attorney or change of correspondence address in this matter. In accordance with Petitioner's arguments, there does not appear to be a Revocation and/or Power of Attorney or Change of Correspondence Address filed on April 25, 2005 in the file. Thus the changes made by the USPTO were in error and it would therefore stand to reason that even without additional proof submitted by the petitioner, that the office communication could not have been received by petitioner and thus, petitioner could not timely reply to the communication.

In view of the above, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. Since no petition fee is due under 37 CFR 1.181, none has been charged.

Since the response to the non-Final Office Action has been provided with the instant petition, this matter is being referred to Technology Center 3737 for consideration and treatment of the amendment filed April 29, 2008.

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

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)
6949708	2005-09-27	10913112	2004-08-06	04-382

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	/Harry D. Gobrecht/	Date (YYYY-MM-DD)	2010-06-07
Name	Harry D. Gobrecht	Registration Number	66481

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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P.O. Box 1450
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In re Patent No. 6949708
Issue Date: September 27,2005
Application No. 10913112
Filed: August 6,2004
Attorney Docket No. HAUSEN.D-01

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

This is a decision on the electronic petition, filed June 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of
Weiner, et al.
Application No. 10/913,117
Filed: August 5, 2004
Attorney Docket No. ACADIA.031CP1

ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed December 10, 2004, (certificate of mailing date December 6, 2004) requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 7, 2004, insofar as it alleges Figures 4 was omitted upon filing.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on August 5, 2004. On October 7, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 4 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners state that Figures 4A-4D were received in the Patent and Trademark Office (PTO) on August 5, 2004.

The Office concurs with this assertion. However, what is at issue is the presence of **Figure 4**.

A review of the application file reveals that 9 sheets of drawings were filed on August 5, 2004. This agrees with the copy of the date stamped itemized postcard receipt from the initial filing submitted with the present petition.

The present petition does not allege and is not accompanied by any evidence that any sheet of drawings containing a "Figure 4" was present in the Office on August 5, 2004.

A review of the application file reveals that the Brief Description of the Drawings describes a

"Figure 4", but the drawings present in the application file and resubmitted with the present petition show Figures 4A-4D, but no Figure 4. In short, petitioners described a drawing figure that was not filed.

Therefore, the "Notice" mailed October 7, 2004, was correct in advising applicants that a drawing of Figure 4 appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn.

The petition fee is required, since the petition was not necessary to correct any PTO error. On November 22, 2004 certain petition fees increased. A petition to accord filing date under 37 CFR 1.53(e) increased to $400.00. Therefore, since a $130.00 petition fee was submitted on certificate of mailing date December 6, 2004, petitioners owe an additional $270.00. Deposit account no. 11-1410 will be charged the balance due.

To avoid further delay in the examination of the application, petitioners should promptly (1) file a letter to the draftsman correcting the labeling of the drawing figures or (2) amend the specification to reconcile the inconsistent references to the drawing figures.

The application will be returned to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of	:	
VALLAPUREDDY, Vineel et al.	:	
Application No. 10/913,118	:	DECISION ON PETITION
Filed: August 05, 2004	:	TO WITHDRAW
Attorney Docket No. **115.0100US01/ 04-099APM**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2009.

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

A review of the file record indicates that the power of attorney to CASCADIA INTELLECTUAL PROPERTY has been revoked by the assignee of the patent application on February 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1630

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CONSTELLATION LAW GROUP, PLLC
P.O. BOX 220
TRACYTON, WA 98393

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of	:	
A. Buell ISH, III	:	
Application No. 10/913,137	:	DECISION ON PETITION
Filed: August 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **VF1-0006-US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2009.

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**), the required statement.

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 14 2007
TECHNOLOGY CENTER 2800

In re Patent No. ONGARO ET AL.	:	
Issue Date: June 19, 2007	:	**DECISION GRANTING**
Appl No.: 10/913,141	:	**PETITION**
Filed: August 06, 2004	:	*37 CFR 1.324*
For: POWER SUPPLY SYSTEM FOR LIQUID CRYSTAL MONITORS	:	

This is a decision on the petition under 37 CFR 1.48, filed December 22, 2006. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition 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.

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821
Patent Examining Group 2800

James V. Costigan, Esq.
Hedman & Costigan, P.C.
Suite 2003
1185 Avenue of the Americas
New York, NY 10036-2646

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAILED FROM
DIRECTORS OFFICE
JUN 14 2007
TECHNOLOGY CENTER 2800

DATE: June 14, 2007
TO: Certificates of Correction Branch
FROM: Douglas W. Owens
SPE, Art Unit 2821
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,233,113 as specified on the attached Certificate.

Douglas W. Owens, SPE
Art Unit 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,233,113
Patented: June 19, 2007

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

Andrea Ongaro
Giorgio Spiazzi
Simone Buso
Paolo Tomasin

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD.
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Dowling et al.	:	DECISIONS ON PETITION
Application No. 10/913,144	:	UNDER 37 CFR 1.78(a)(3)
Filed: August 6, 2004	:	AND 1.78(a)(6)
Attorney Docket No. CKB-074.02	:	

This is a decision on the petition filed August 4, 2005, which is being treated a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and supplemental ADS.

The petition is **granted**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was

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

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in a supplemental ADS as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contain an adequate statement of unintentional delay.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed

[1] 37 CFR 1.78(a)(3) and 1.78(a)(6) require 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. Because the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3) and (a)(6), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3) and (a)(6).

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell 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 matter is being referred to Technology Center Art Unit 2828 for appropriate action on the amendment and the supplemental ADS filed August 4, 2005, including consideration by the examiner of the claim for the benefit of the prior-filed applications.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-09-08

Paper No.: ____

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 7248238 / 10/913144

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.

Intellectual Prop A/S/A/P

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext.

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:

Doug H. Ou
SPE

2821
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/16/07

Paper No.: _____

TO SPE OF : ART UNIT 4200

SUBJECT : Request for Certificate of Correction for Appl. No. 7248239 B2/10/913144

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**.

Should Cont data be enter?

Yes hp

E M James
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: _____

Doug K. Owen
SPE

2821
Art Unit

Docket No.: C1104.70074US01
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kevin J. Dowling et al.
Serial No.:	10/913,144
Confirmation No.:	3443
Filed:	August 6, 2004
Patent No.:	7,248,239
For:	SYSTEMS AND METHODS FOR COLOR CHANGING DEVICE AND ENCLOSURE
Examiner:	H. Philogene
Art Unit:	2821

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Related U.S. Application Data:

(63) Continuation of application No. 09/917,246, filed on Jul. 27, 2001, now Pat. No. 6,888,322, ~~and~~ which is a continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, ~~said application No. 09/917,246~~ and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Pat. No. 6,166,496. Said application No. 09/917,246 is ~~and~~ a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, ~~is~~ and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on Dec. 17, 1998, now Pat. No. 7,038,398, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745, ~~which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Pat. No. 6,166,496, said application No. 09/917,246 is~~ and a continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, ~~said application No. 09/917,246 is~~ and a continuation-in-part of application No. 09/626,905, filed on Jul. 27, 2000, now Pat. No. 6,340,868, which is a continuation of application No. 09/213,659, filed on Dec. 17, 1998, now Pat.

No. 6,211,626, application No. 10/913,144~~, which~~ is a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, now Pat. No. 7,186,003.

The errors were not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Dated: September 13, 2007

Respectfully submitted,

By _____

Joseph Teja, Jr.
Registration No.: 45,157
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
(617) 646-8000

PTO/SB/44 (07-07)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,248,239
APPLICATION NO.	:	10/913,144
ISSUE DATE	:	July 24, 2007
INVENTOR(S)	:	Kevin J. Dowling 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:

(63) Continuation of application No. 09/917,246, filed on Jul. 27, 2001, now Pat. No. 6,888,322, which is a continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Pat. No. 6,166,496. Said application No. 09/917,246 is a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on Dec. 17, 1998, now Pat. No. 7,038,398, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745, and a continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, and a continuation-in-part of application No. 09/626,905, filed on Jul. 27, 2000, now Pat. No. 6,340,868, which is a continuation of application No. 09/213,659, filed on Dec. 17, 1998, now Pat. No. 6,211,626, application No. 10/913,144 is a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, now Pat. No. 7,186,003.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Joseph Teja, Jr.
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206

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

TIMOTHY J. OYER, PH.D.
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of
Cynthia C. Bamdad et al.
Application No. 10/913,150
Filed: August 6, 2004
Attorney Docket No. M1015.-70050US02

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

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

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

The above-identified application was filed on August 6, 2004, without an oath or declaration. Accordingly, on October 4, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Cynthia C. Bamdad, Shoshana Bamdad Shendelman and Michael Frid as joint inventors but only executed by inventors Bamdad and Frid, late filing surcharge and a request for a five month extension of time were filed. The petition argues that joint inventor Shendelman refuses to sign the oath or declaration and thus by her actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to and received by the non-signing inventor's legal counsel, Mr. DiLibero and that to date, Ms. Shendelman has not returned an executed copy of the oath or declaration. Additionally, Mr. DiLibero advised in a verbal conversation with the Attorney of Record, that Ms. Shendelman was expressly refusing to sign the documents.

The above-identified application and papers have been reviewed and found in

compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

Please be advised that a review of the file does not reveal that a check for the petition did not accompany the other papers filed May 6, 2005. As a result and per petitioner's authorization, deposit account no. 23-2825 has been charged in the amount of $200.00 for the petition fee.

This matter is being referred to Technology Center 1641 for further examination.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOSHANA BAMDAD SHENDELMAN
275 WEST 96TH
APT 18F
NEW YORK, NY 10025

COPY MAILED

JUN 20 2005

OFFICE OF PETITIONS

In re Application of
Cynthia C. Bamdad et al.
Application No. 10/913,150
Filed: August 6, 2004
For: ELECTROACTIVE SURFACE-CONFINABLE MOLECULES

Dear Ms. Shendelman:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

TIMOTHY J. OYER, PH.D.
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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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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WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of
Cynthia C. Bamdad et al.
Application No. 10/913,150
Filed: August 6, 2004
Attorney Docket No. M1015.-70050US02

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

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

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

The above-identified application was filed on August 6, 2004, without an oath or declaration. Accordingly, on October 4, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Cynthia C. Bamdad, Shoshana Bamdad Shendelman and Michael Frid as joint inventors but only executed by inventors Bamdad and Frid, late filing surcharge and a request for a five month extension of time were filed. The petition argues that joint inventor Shendelman refuses to sign the oath or declaration and thus by her actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to and received by the non-signing inventor's legal counsel, Mr. DiLibero and that to date, Ms. Shendelman has not returned an executed copy of the oath or declaration. Additionally, Mr. DiLibero advised in a verbal conversation with the Attorney of Record, that Ms. Shendelman was expressly refusing to sign the documents.

The above-identified application and papers have been reviewed and found in

compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

Please be advised that a review of the file does not reveal that a check for the petition did not accompany the other papers filed May 6, 2005. As a result and per petitioner's authorization, deposit account no. 23-2825 has been charged in the amount of $200.00 for the petition fee.

This matter is being referred to Technology Center 1641 for further examination.

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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SHOSHANA BAMDAD SHENDELMAN
275 WEST 96TH
APT 18F
NEW YORK, NY 10025

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of
Cynthia C. Bamdad et al.
Application No. 10/913,150
Filed: August 6, 2004
For: ELECTROACTIVE SURFACE-CONFINABLE MOLECULES

Dear Ms. Shendelman:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

TIMOTHY J. OYER, PH.D.
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

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APR 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Cynthia C. Bamdad et al :
Application No. 10/913,150 : ON PETITION
Filed: August 6, 2004 :
Attorney Docket No. M1015.70050US02 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 2, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 3, 2006.

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 $525 extension of time submitted with the petition on December 14, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 1641 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

KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
MJALLI et al.	:	
Application No. 10/913,168	:	ON APPLICATION FOR
Filed: August 6, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. TTP 2003-02-US-A	:	

This is in response to the Petition Regarding Patent Term Adjustment (PTA) indicated in Notice of Allowance filed March 19, 2009. Applicant requests that the determination of patent term adjustment be corrected from 528 days to 754 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness

of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on March 20, 2008.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account. No additional fees are required.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JUL 07 2009

OFFICE OF PETITIONS

KILPATRICK STOCKTON LLP -
41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Patent No. 7,544,699	:	
MJALLI et al.	:	DECISION DISMISSING
Issue Date: June 9, 2009	:	REQUEST FOR
Application No. 10/913,168	:	RECONSIDERATION
Filed: August 6, 2004	:	OF PATENT TERM ADJUSTMENT
Docket No. TTP 2003-02-US-A	:	UNDER 37 CFR 1.705

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Filed under 37 CFR § 1.705(d)" filed June 18, 2009. Patentees request that the determination of patent term adjustment be corrected from five hundred twenty-eight (528) days to seven hundred fifty-four (754) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 528 days.

BACKGROUND

This application was filed on August 6, 2004. On March 20, 2008, a request for continued examination (RCE) was filed. On June 9, 2009, the application matured into U.S. Patent No. 7,544,699, with a revised patent term adjustment of 528 days. The Office determined that the 227 days of Office delay[1] pursuant

[1] As of the filing of the RCE on March 20, 2008, the application was pending three years and 227 days.

to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2] overlap with the 530 days of Office delay[3] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 530 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 2 days, the patent issued with a revised patent term adjustment of 528 (530 - 2) days.

On June 18, 2009, patentees timely submitted this request for reconsideration of patent term adjustment. Patentees contend:

> The determination of the total PTA of 528 days is erroneous because the US Patent & Trademark Office's (PTO) PTA calculator failed to account for two separate Patent Office delays. The two PTO delay periods should

---

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[3] The Office mailed a Restriction Requirement on March 20, 2007, fourteen months and 530 days after the application was filed on August 6, 2004.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

> have their days added together in accordance with the reasoning in *Wyeth et al. v. Dudas*, No. 07-1492 (D.D.C. September 30, 2008). The number of PTA credits of 530 days for PTO delay under 35 USC § 154(b)(1)(A) and 37 CFR § 1.702(a)(1) … is correct and agrees with the credit calculated by the PTO. Applicants' delay of 2 days means that the first delay as calculated by the PTO for PTA of 528 days is correct. However, this delay only accounts for one of the delays of the PTO. The other delay warrants a PTA credit of 226 days for PTO delay under 35 U.S.C. § 154(b)(1)(B) and 37 CFR § 1.702(b). Because these two periods of delay do not overlap, Applicants are entitled to the sum of these two periods. Accordingly, a total PTA credit of 756 days (i.e., 530 days + 226 days) is appropriate based upon the PTO delay. The total number of PTA debits of 2 days for applicant delay … is correct. Thus, the correct total PTA to date is 754 days.
> Thus, Applicants believe that the total PTA credit for PTO delay is 756 days, the total PTA debit for applicant delay is 2 days, and the total PTA under § 1.703(f) is 754 days.

Petition dated 06/18/09, pp. 1-2.

The Office notes that that patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 226 days. Furthermore, patentees used the incorrect number of 226 days in calculating the requested patent term determination of 754 (530 + 226 - 2) days. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 227 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), August 7, 2007, and ending on the date the RCE was filed, March 20, 2008. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Accordingly, the Office will use the correct Three Year Delay period of 227 (not 226) in determining patent term adjustment.

OPINION

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

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

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

additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of the filing of the application under 35 U.S.C. 111(a) on August 6, 2004, and ending on the date of filing of the request for continued examination (RCE) on March 20, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 530 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 227 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 227 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 530 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 530 days and the 227 days is neither permitted nor warranted. 530 days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 227 days of Office delay under the three-year pendency provision.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 528 days.

The USPTO finance records reveal that the Office charged the $200.00 fee under 37 CFR 1.18(e) to patentees' Deposit Account on March 19, 2009. Therefore, the additional $200.00 fee submitted with the instant request for reconsideration is unnecessary and will be refunded in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAY 19 2010

OFFICE OF PETITIONS

Kilpatrick Stockton LLP-41035
Charles Calkins
1001 West Fourth Street
Charlotte, NC 27101

In re Patent No. 7,544,699 Mjalli et al. Issue Date: June 9, 2009 Application No. 10/913,168 Filed: August 6, 2004 Attorney Docket No. TTP 2003-02-US-A Title: Aryl and Heteroaryl Compounds and Compositions Thereof	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seven hundred fifty-four (754) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred fifty-four (754) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,699 B2

DATED : **June 9, 2009** **DRAFT**

INVENTOR(S) : Mjalli 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 528 days

Delete the phrase "by 528 days" and insert – by 754 days--

Day : Wednesday

PALM INTRANET

Date: 5/19/2010
Time: 10:13:30

PTA Calculations for Application: 10/913168			
Application Filing Date:	08/06/2004	PTO Delay (PTO):	530
Issue Date of Patent:	06/09/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	754
PTO Delay Adjustment:	226		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	05/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	226		
87.5	05/20/2009	PTA 36 MONTHS			
87	06/09/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
86	04/23/2009	EXPORT TO FINAL DATA CAPTURE			
85	04/22/2009	DISPATCH TO FDC			
84	04/16/2009	MAIL-PETITION DECISION - DISMISSED			
83	04/16/2009	PETITION DECISION - DISMISSED			
82	03/19/2009	PETITION ENTERED			
81	03/20/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	03/19/2009	ISSUE FEE PAYMENT VERIFIED			
79	03/19/2009	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
78	03/19/2009	ISSUE FEE PAYMENT RECEIVED			
77	01/27/2009	FINISHED INITIAL DATA CAPTURE			
76	12/22/2008	EXPORT TO INITIAL DATA CAPTURE			
74	12/19/2008	MAIL NOTICE OF ALLOWANCE			
73	12/17/2008	ISSUE REVISION COMPLETED			
72	12/17/2008	DOCUMENT VERIFICATION			
71	12/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	12/16/2008	EXAMINER'S AMENDMENT COMMUNICATION			
69	12/16/2008	NOTICE OF ALLOWABILITY			
66	10/10/2008	DATE FORWARDED TO EXAMINER			
65	09/22/2008	RESPONSE AFTER NON-FINAL ACTION		2	63
64	09/09/2008	WORKFLOW - QUERY REQUEST - FINISH			

63	06/20/2008	MAIL NON-FINAL REJECTION			
62	06/18/2008	NON-FINAL REJECTION			
58	04/15/2008	DATE FORWARDED TO EXAMINER			
57	03/20/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
56	04/15/2008	DATE FORWARDED TO EXAMINER			
55	03/20/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
54	04/15/2008	DISPOSAL FOR A RCE / CPA / R129			
53	03/20/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
52	02/19/2008	MAIL EXAMINER'S AMENDMENT			
51	02/19/2008	EXAMINER'S AMENDMENT COMMUNICATION			
48	01/31/2008	PUBS CASE REMAND TO TC			
47	02/11/2008	WORKFLOW - QUERY REQUEST - BEGIN			
46	12/31/2007	EXPORT TO INITIAL DATA CAPTURE			
45	12/26/2007	MAIL NOTICE OF ALLOWANCE			
44	12/21/2007	ISSUE REVISION COMPLETED			
43	12/21/2007	DOCUMENT VERIFICATION			
42	12/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	12/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
40	12/21/2007	NOTICE OF ALLOWABILITY			
39	10/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	10/10/2007	DATE FORWARDED TO EXAMINER			
35	10/04/2007	RESPONSE AFTER NON-FINAL ACTION			
34	10/04/2007	REFERENCE CAPTURE ON IDS			
33	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	07/09/2007	MAIL NON-FINAL REJECTION			
30	07/05/2007	NON-FINAL REJECTION			
29	01/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	04/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

26	03/23/2006	CONSIDERED			
25	04/26/2007	DATE FORWARDED TO EXAMINER			
24	04/16/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
23	03/20/2007	MAIL RESTRICTION REQUIREMENT	530		-1
22	03/15/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21.7	03/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	06/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	06/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	05/17/2005	REFERENCE CAPTURE ON IDS			
17.7	05/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/07/2005	REFERENCE CAPTURE ON IDS			
15.7	04/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/28/2005	REFERENCE CAPTURE ON IDS			
13.7	01/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/22/2004	APPLICATION RETURN FROM OIPE			
11	11/22/2004	APPLICATION RETURN TO OIPE			
10	11/22/2004	APPLICATION DISPATCHED FROM OIPE			
9	11/22/2004	APPLICATION IS NOW COMPLETE			
8	11/09/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	11/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	10/12/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/21/2004	CLEARED BY L&R (LARS)			
4	09/20/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/20/2004	CASE CLASSIFIED BY OIPE			

2	08/31/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/06/2004	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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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/26/2010

Applicant	: Matthew A. Bailey	: DECISION ON REQUEST FOR
Patent Number	: 7569746	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/913,202	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **932** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DAVID W HIGHET VP & CHIEF IP COUNSEL
BECTON DICKINSON AND COMPANY
1 BECTON DRIVE
MC 110
FRANKLIN LAKES NJ 07417-1880

COPY MAILED

FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Min Wu	:	
Application No. 10/913,209	:	ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. 85805	:	

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

The petition 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 February 26, 2008. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 27, 2008. A Notice of Abandonment was mailed on October 16, 2008.

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

The Terminal Disclaimer filed with the instant petition is not required since the application was not filed prior to

June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. The Terminal Disclaimer fee of $140 has been refunded to petitioner's Deposit Account number No. 08-2461.

The application is being forwarded to Group Art Unit 1644 for consideration of the Amendment filed January 12, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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PHILIP S. JOHNSON
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Mail Date: 04/20/2010

Applicant	: Thomas J. Runco	: DECISION ON REQUEST FOR
Patent Number	: 7572281	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,223	: OF WYETH
Filed	: 08/06/2004	:
		:

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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NEW BRUNSWICK, NJ 08933-7003

Mail Date: 05/17/2010

Applicant : Thomas J. Runco
Patent Number : 7572281
Issue Date : 08/11/2009
Application No : 10/913,223
Filed : 08/06/2004

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1405** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: Ahmad R. Ansari	: DECISION ON REQUEST FOR
Patent Number	: 7590823	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,231	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 23 2005
OFFICE OF PETITIONS

In re Application of
Karl R. Leinsing, et al.
Application No. 10/913,239
Filed: August 6, 2004
Attorney Docket No.: 69209

ON PETITION

This is a decision on the petition, filed November 22, 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 September 30, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3754 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : November 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Karl R. Leinsing, et al.
Application No. : 10/913,239
Filed : August 6, 2004

The above-identified application has been assigned Patent No. 6,971,630 and an issue date of December 6, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 6, 2005:

> "All reference to Patent No. 6,971,630 to KARL R. LEINSING, ET AL. of NORTH CAROLINA for NEEDLE FREE MEDICAL CONNECTOR WITH EXPANDED VALVE MECHANISM AND METHOD OF FLUID FLOW CONTROL appearing in the Official Gazette of December 6, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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Paper No.

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUN 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,626,899	:	DECISION ON REQUEST
Tsai et al.	:	FOR
Issue Date: 12/01/2009	:	RECONSIDERATION OF
Application No. 10/913,241	:	PATENT TERM ADJUSTMENT
Filed: 08/06/2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
320528687US1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred forty-four (544) 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 five hundred forty-three (543) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 7, 2007 and ends on February 10, 2008, the day before the RCE was filed, and is 188 (not 189) days. See 35 U.S.C. 154(b)(1)(B)(i). Accordingly, the patent term adjustment is 543, not 544 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred forty-three (543)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,626,899 B2

DATED : **December 1, 2009** **DRAFT**

INVENTOR(S) : Tsai 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 355 days.

Delete the phrase "by 355 days" and insert – by 543 days--

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United States Patent and Trademark Office
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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

Mail Date: 04/21/2010

Applicant	: James H. Saunders	: DECISION ON REQUEST FOR
Patent Number	: 7615294	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,287	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1062** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Kathryn E. Uhrich	:	
Application No. 10/913,289	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO WITHDRAW
Attorney Docket No. 019599-000811US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

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

A review of the file record indicates that the power of attorney to Monique Shonka and all attorneys/agents of record has been revoked by the assignee of the patent application on May 1, 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: Viksnins, Harris & Padys, PLLP
P.O. Box 111098
St. Paul, MN 55111-1098

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DAVID L. PARKER
FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Maher **Albitar**, et al.	:	
Application No. 10/913,296	:	DECISION ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. UTSC:874US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 Restriction Requirement, mailed February 10, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 11, 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 election/amendment, (2) the petition fee of $750; 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.

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

This application is being referred to Technology Center AU 1642 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Jeong-Woo Yoo :
Application No. 10/913,300 : ON PETITION
Filed: August 5, 2004 :
Attorney Docket No. LEELE85.001CP1 :

This is a decision on the petition filed December 6, 2004, requesting that above-identified application be accorded a filing date of August 5, 2004, with Figure 1 as described in the specification as a part of the original disclosure. This petition is treated under 37 CFR 1.53.

The petition is **DISMISSED**.

The application was filed on August 5, 2004. Petitioners concede that Figure 1 was in fact not included with the application as filed, but request that the application, including Figure 1, be accorded a filing date of August 5, 2004. In support, petitioners argue that the present application is a continuation in part of PCT/KR02/00629, filed April 9, 2002, and incorporates the prior application by reference.

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

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

Obviously, in view of the incorporation by reference of the prior application, Figure 1 as described in the specification is not new matter if it was a part of the disclosure of the prior application.

Accordingly, the petition is DISMISSED and the petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

It should also be noted that, effective November 22, 2004, the petition fee has been increased from $130.00 to $400.00. Therein, deposit account no. 11-1410 has been charged in the amount of $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.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 5, 2004, using the application papers present on that date and the drawings submitted on petition on December 6, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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DEC 2 3 2004

OFFICE OF PETITIONS

In re Application of
Catherine Tachdjian et al.
Application No. 10/913,303
Filed: August 6, 2004
Attorney Docket No. 19328.0002U3

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

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

The petition is **GRANTED**.

The above-identified application was filed on December 12, 2003, without a signed declaration. Accordingly, on October 18, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition, oath or declaration executed by all joint inventors except Daniel Harry Rogers and a petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Daniel Harry Rogers refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Rogers and that after numerous subsequent communications with Mr. Rogers, he has not returned an executed oath or declaration and has expressly refused to do so.

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

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

The application is being forwarded to Technology Center 1761 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:
Catherine Tachdjian et al.	:
Application No. 10/913,303	: DECISION ACCORDING STATUS
Filed: August 6, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 19328.0002U3	:

CORRECTED DECISION[1]

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

The petition is **GRANTED**.

The above-identified application was filed on August 6, 2004, without a signed declaration. Accordingly, on October 18, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition, oath or declaration executed by all joint inventors except Daniel Harry Rogers and a petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Daniel Harry Rogers refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Rogers and that after numerous subsequent communications with Mr. Rogers, he has not returned an executed oath or declaration and has expressly refused to do so.

[1]In response to the request submitted January 10, 2005, for a corrected decision, please be advised that the receipt date for the petition was December 3, 2004, the certificate of mail date was December 2, 2004. As well, this decision replaces the decision mailed December 23, 2004 as the filing date in the body of the decision was incorrectly stated.

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

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

The application is being forwarded to Technology Center 1761 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No.

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

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JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,476,399	:	DECISION ON REQUEST
Tachdjian et al.	:	FOR
Issue Date: January 13, 2009	:	RECONSIDERATION OF
Application No. 10/913,303	:	PATENT TERM ADJUSTMENT
Filed: August 6, 2004	:	and
Atty Docket No. SENO-004/02US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 12, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-five (1195) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-five (1195) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-five (1195)** 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 : 7,476,399 B2

DATED : **January 13, 2009** **DRAFT**

INVENTOR(S) : Tachdjian 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 907 days

Delete the phrase "by 907 days" and insert – by 1195 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of

Kareen LOOI, et al
Application No. 10/913,304
Filed: August 6, 2004
Attorney Docket No. 021258-001710US/00929-0

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 24, 2008.

The request is **APPROVED**.

A review of the file record indicates that Mark D. Barrish: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Mark D. Barrish has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed June 26, 2007 that requires a reply by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KAREEN LOOI
1060 RAMBLEWOOD PLACE
CHARLOTTESVILLE, VA 22901

MEDTRONIC VASCULAR, INC.
ATTN: KIM S. GRIGG
3576 UNOCAL PLACE
SANTA ROSA, CA 95403

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
10/913,304	08/06/2004	Kareen Looi	021258-001710US / 00929-0

CONFIRMATION NO. 3730

POWER OF ATTORNEY NOTICE

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

OC000000029141460

Date Mailed: 03/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2008.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Intellectual Property Department
Amylin Pharmaceuticals, Inc.
9360 Towne Centre Drive
San Diego, CA 92121

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JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of Coolidge and Ehlers :
Reissue Application No. 10/913,309 :
Reissue Filing Date: August 6, 2004 : Decision on Petition
Reissue of Patent No. 6,429,197 :
Original Issue Date: August 6, 2002 :
Attorney Docket No. 0213-RE2-9 :

This is a decision on the petition under 37 CFR 1.47(a) filed September 18, 2007, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.[1]

The petition is **granted.**

In view of the efforts recounted in the petition to obtain the signature of inventor Coolidge, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed September 18, 2007.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The required petition fee of $400 has been charged to petitioner's deposit account.

Technology Center Art Unit 1654 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

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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February 2006

KEATING & BENNETT, LLP
8180 Greensboro Drive, Suite 850
Tyson's Corner, VA 22102

MAR 0 2 2006

In re Application of: KEIICHI UMEDA ET AL. Serial No.: 10/913,311 Filed: 09 August 2004 Docket: 36856.1280 Title: ELECTRONIC COMPONENT AND METHOD FOR MANUFACTURING THE SAME	DECISION ON PETITION TO RESET TIME PERIOD FOR REPLY UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on January 31, 2006 under 37 C.F.R. § 1.181 and MPEP § 710.06 to reset the time period for reply to the Office action mailed December 7, 2005 to the actual receipt date at the correspondence address on January 25, 2006. A three-month shortened statutory period for reply was set in the non-final Office action.

The petition to reset the statutory period for reply is **GRANTED**.

In support of the petition, applicant provides: (A) a statement that the petition was filed within two weeks of actual receipt of the Office action on January 25, 2006; (B) a statement that a substantial portion of the set reply period had elapsed between the mail date of December 7, 2005 and the actual receipt date of January 25, 2006; (C)(1) a copy of the first page of the Office action showing the stamped date of receipt at the correspondence address of January 25, 2006; and (C)(2), a statement setting forth that the Office action was actually received at the correspondence address on January 25, 2006 since the first page of the Office action was date stamped immediately upon receipt by petitioner.

The petition fulfills the requirements of MPEP § 710.06.I. (A)-(C).

The shortened statutory period for reply set in the Office action of December 7, 2005, is hereby reset to run three months from January 25, 2006, the date the action was actually received by petitioner. Extensions of time are available under the provisions of 37 C.F.R. § 1.136(a).

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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of
Kia Silverbrook
Application No. 10/913,325
Filed: August 9, 2004
Attorney Docket No. ZE034US

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

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

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior filed application.

This nonprovisional application was filed on August 9, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed nonprovisional application was not included in an ADS or in the first sentence of the specification following the title, the reference was made to the first page of the specification under "Referenced Patent Applications."

The current procedure where a claim for priority under 37 CFR §1.78(a)(3) is not included in the **first sentence of the specification following the title** or in an ADS and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§1.78(a)(2(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed nonprovisional application(s) submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1] In this case, the Office noted the claim for priority of nonprovisional Application No. 09/112,767, as shown by its inclusion on the filing receipt.

[1] Note MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded in due course.

Any questions concerning this decision on petition may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of Technology Center AU 2853 will take appropriate action on the amendment filed June 26, 2006, including consideration of the claim for benefit under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Karel Mittig	: DECISION ON REQUEST FOR
Patent Number	: 7581014	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Nakano et al.	:	
Application No. 10/913,336	:	DECISION ON PETITION
Filed: 08-09-2004	:	
Attorney Docket No. 056203,55224US	:	

This is a decision on the petition under 37 CFR 1.181, filed May 2, 2007, to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on October 10, 2006, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on April 18, 2007.

Petitioners asserted that they filed a timely reply in response to the nonfinal Office action on April 10, 2007. Petitioners submitted a copy of their reply and a return postcard receipt, acknowledging receipt of an amendment and a request for extension of time for response in the third month in the USPTO on April 10, 2007.

Upon a review of the record, the Office has located the amendment and the request for an extension of time for response within the third month (and fee), filed on April 10, 2007, in response to the nonfinal Office action. Accordingly, the petition is **granted**.

The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely filed and received on April 10, 2007.

The matter is being referred to the Technology Center Art Unit 2813 for a review of the amendment filed on April 10, 2007.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Noma and Takemura :
Application No.: 10/913,354 :
Filed: August 9, 2004 :
Attorney Docket No.: 36856.1273 :

ON PETITION

This a decision on the petition under 37 CFR 1.53 filed October 18, 2004. The petition will be treated as request to withdraw the Notice of Omitted Items in a Nonprovisional Application (the "Notice") under 37 CFR 1.182.

The petition is **dismissed.**

The application was filed on August 9, 2003. The application included fifteen sheets of drawings, however; none of the figures encompassed in the drawings was labeled "Figure 8" and as identified in the specification. Accordingly on October 7, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of August 9, 2004, but that Figure 8 appeared to have been omitted.

In response, the present petition was filed. Petitioner therein argued that Figure 8 was included among the drawings and that petitioner has an Office date-stamped postcard acknowledging receipt of drawings. The petition was accompanied by one sheet of drawings containing Figure 8.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the "Office") file is the official record of the papers originally filed in this application. A review of the application file reveals that fifteen sheets of drawings were filed on August 9, 2003, but no figure labeled 8 was found among the fifteen sheets of drawings originally filed. The Office of Initial Patent Examination correctly issued a Notice of Omitted Items of Nonprovisional Application Figure 8 because no figure having such a reference was found in the drawings. Further, the petition papers filed October 18, 2004, did not include a copy of the Office date-stamped postcard, although petitioner indicated that such evidence would be provided.

Copied from 09238948 on 12/02/2004

The petition is dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 9, 2003, using the fifteen sheets of drawings filed August 9, 2004.

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

Copied from 09238948 on 12/02/2004

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OFFICE OF PETITIONS

In re Application of :
Noma and Takemura :
Application No.: 10/913,354 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No.: 36856.1273 :

This is a decision on the renewed petition under 37 CFR 1.53 filed November 12, 2004. The petition will be treated as request to withdraw the Notice of Omitted Items in a Nonprovisional Application (the "Notice") under 37 CFR 1.182.

The renewed petition is **dismissed.**

The application was filed on August 9, 2003. The application included fifteen sheets of drawings, however; none of the figures encompassed in the drawings was labeled "Figure 8" and as identified in the specification. Accordingly on October 7, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of August 9, 2004, but that Figure 8 appeared to have been omitted.

In response, the present renewed petition was filed. Petitioner therein argued that Figure 8 was included among the drawings. As evidence of the same, petitioner provided a copy of the application transmittal sheet, and a copy of the "Certificate of Hand Delivery."

The arguments have been considered, but are not persuasive. The evidence provided with the instant renewed petition is not *prima facie* evidence that Figure 8 of the drawings was filed with the application papers on August 9, 2004. The "Certificate of Hand Delivery" is not *prima facie* evidence because it does not have an Office date-stamp of August 9, 2004. The "Certificate of Hand Delivery" is akin to a postcard. In order for the postcard to be used as evidence of the Office's receipt of correspondence, the postcard must be properly itemized and date-stamped by the Office. Although itemized, the "Certificate of Hand Delivery" does not contain a date-stamp of August 9, 2004. The "Certificate of Hand Delivery" could have received an Office date-stamp when the application papers were presented for filing. Without an Office date-stamp, it cannot be used as *prima facie* evidence of the Office's receipt of 16 sheets of drawings, including Figure 8, on August 9, 2004. The copy of the application transmittal sheet is similarly deficient because it does not contain an Office date-stamp whereby the Office acknowledges receiving the correspondence itemized. It should be noted that the only dispositive evidence

would be a properly itemized Office date-stamped postcard, or other itemized Office date-stamped certificate, or other evidence made pursuant to 37 CFR 1.10.

If petitioner is intending the "Certificate of Hand Delivery" to serve the same purpose as a certificate of mailing pursuant to 37 CFR 1.8, petitioner is advised that the procedures provided by 37 CFR 1.8 do not apply to the filing of a national patent application drawing for the purposes of obtaining an application filing date. See 37 CFR 1.8(a)(2)(i)(A).

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 9, 2003, using the fifteen sheets of drawings filed August 9, 2004.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Noma and Takemura :
Application No.10/913,354 :
Filed: August 9, 2004 :
Attorney Docket No. 36856.1273 :

DECISION GRANTING PETITION

This is a decision on the second renewed petition, filed January 3, 2005, requesting that the above-identified application retain the presently accorded a filing date of August 9, 2005, with Figure 8 as described in the specification as part of the original disclosure.

The application was filed on August 9, 2003. The application included fifteen sheets of drawings, however; none of the figures encompassed in the drawings was labeled "Figure 8" as described in the specification. Accordingly, on October 7, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of August 9, 2004, but that Figure 8 appeared to have been omitted. A petition under 37 CFR 1.182 was filed on October 18, 2004, and dismissed by a decision mailed November 12, 2004. A renewed petition was filed on November 22, 2004, and dismissed by a decision mailed December 13, 2004. The instant second renewed petition was filed on January 3, 2005.

Applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 16 sheets of drawings on August 9, 2004, and a copy of Figure 8 of the drawings.

Upon review of the record, Figure 8 as described in the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited August 9, 2004, included Figures 8, which were subsequently misplaced by the Office. Therefore, the application, including Figure 8 as described in the specification, was complete on filing and entitled to the presently accorded filing date of August 9, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly.

The petition fees remitted, totaling $660.00, will be refunded, in due course.

The application file is being directed to Technology Center 3600, GAU 3634 for further processing with the presently accorded filing date of August 9, 2004, using the 16 sheets of drawings filed.
on that date.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 300
ALEXANDRIA VA 22314

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Paek, et al. :
Application No. 10/913,417 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 123034-05004747 :
For: PLANAR FOCUSING GRATING COUPLER

This is a decision on the petition, filed June 7, 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 a reply to the January 9, 2007 Notice to File Corrected Application Papers, which set a non-extendable 60 day period for reply. No reply being received, the Office considered this application abandoned on March 12, 2007. A Notice of Abandonment was mailed on May 22, 2007.

Petitioners allege that the January 9, 2007 Notice was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the January 9, 2007 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) a practitioner at Mayer Brown Rowe & Maw LLP did not provide a statement that a thorough search of the file jacket and applicable docket records was conducted and (2) a practitioner at Mayer Brown Rowe & Maw LLP did not attach a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed to his/her statement.

The correspondence was mailed to Mayer Brown Rowe & Maw LLP. A practitioner from that firm should be providing the showing of non-receipt.

Petitioners have not provided adequate evidence of non-receipt. The petition is dismissed.

The revocation/power of attorney filed June 7, 2007 has been accepted and entered into Office databases. Please find enclosed Notices reflecting the changes.

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

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[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Notices regarding changes in power of attorney

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/913,417	08/09/2004	Mun Cheol Paek	123034-05004747

CONFIRMATION NO. 4675

OC000000024392530

OC000000024392530

22429
LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

Date Mailed: 06/18/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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

/SI/

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/913,417	08/09/2004	Mun Cheol Paek	123034-05004747

CONFIRMATION NO. 4675

OC000000024392529

OC000000024392529

43569
MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON, DC 20006

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/sl

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LOWE HAUPTMAN & BERNER, LLP

CERTIFICATION OF FACSIMILE TRANSMISSION
I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE ON THE DATE SHOWN BELOW

Kwang Yup Chae
TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION

SIGNATURE 7/9/07 DATE

571-273-8300
FACSIMILE NUMBER

FAX - URGENT

To:	Office of Petitions	From:	Yoon S. HAM (Reg. 45,307)
Of:	US PTO	Pages:	12 pages including this cover sheet
Fax:	(571) 273-8300	Date:	July 9, 2007
Re:	U.S. Patent Application No. 10/913,417 Confirmation No. 4675 Atty. Dkt No.: 123034-05004747		

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Attachment:

1. *Response to Decision on Petition and Request for Reconsideration (2 pages);*
2. *Copy of Petition Decision dated June 26, 2007 (3 pages);*
3. *Statement of Non-Receipt of the PTO document provided by Mayer Brown Rowe & Maw LLP (2 pages); and*
4. *Copy of the docket record provided by Mayer Brown Rowe & Maw LLP (4 pages).*

Thank you.

Yoon S. Ham (Reg. 45,307)

IMPORTANT -The information contained in this facsimile is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone, and return the original message to us at the address above via the U.S. Postal Service. Thank you.

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Docket No.: 123034-05004747 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	
Mun Cheol PAEK et al	Confirmation No.4675
Application No. 10/913,417	Group Art Unit: 2874
Filed: August 9, 2004	Examiner: PAK, Sung H

For: PLANAR FOCUSING GRATING COUPLER

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P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON PETITION AND REQUEST FOR RECONSIDERATION

Sir/Madam:

In response to the Dismissal of Petition dated June 26, 2007, copy of which attached, Applicant submits (1) a statement of non-receipt of the PTO document, provided by a practitioner at Mayer Brown Rowe & Maw LLP and (2) a copy of the docket record where the-non-received Office communication would have been entered had it been received.

Applicant hereby respectfully requests the reconsideration of Petition to withdraw holding of abandonment.

Please apply any charges or credits to Deposit Account 07-1337.

If there are any questions, please contact the undersigned attorney.

Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP

Yoon S. HAM
Registration No. 45,307

Date: July 9, 2007

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, Virginia 22314
Direct Tel (703) 535-7340
Facsimile (703) 518-5499

YSH:kyc

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OFFICE OF PETITIONS

In re Application of :
Paek, et al. :
Application No. 10/913,417 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 123034-05004747 :
For: PLANAR FOCUSING GRATING COUPLER

This is a decision on the petition, filed June 7, 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 a reply to the January 9, 2007 Notice to File Corrected Application Papers, which set a non-extendable 60 day period for reply. No reply being received, the Office considered this application abandoned on March 12, 2007. A Notice of Abandonment was mailed on May 22, 2007.

Petitioners allege that the January 9, 2007 Notice was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

DOCKETED BY: mg
DATE: 8-26-07
Req Recons. Duration

RECEIVED
JUN 27 2007
LOWE, HAUPTMAN & BERNER

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the January 9, 2007 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) a practitioner at Mayer Brown Rowe & Maw LLP did not provide a statement that a thorough search of the file jacket and applicable docket records was conducted and (2) a practitioner at Mayer Brown Rowe & Maw LLP did not attach a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed to his/her statement.

The correspondence was mailed to Mayer Brown Rowe & Maw LLP. A practitioner from that firm should be providing the showing of non-receipt.

Petitioners have not provided adequate evidence of non-receipt. The petition is dismissed.

The revocation/power of attorney filed June 7, 2007 has been accepted and entered into Office databases. Please find enclosed Notices reflecting the changes.

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

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[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Notices regarding changes in power of attorney

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CENTRAL FAX CENTER
JUL 09 2007

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application Number	:	10/913,417	Confirmation No. 4675
Applicant	:	Mun CheolPaek et al.	
Filed	:	August 9, 2004	
Tech Cntr/AU	:	2874	
Examiner	:	Sung H. Pak	
Entitled	:	PLANAR FOCUSING GRATING COUPLER	
Attorney Reference	:	123033-05004747	

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

Statement of Non-Receipt of the PTO document

Sir:

After full search and investigation, I hereby confirm that MAYER BROWN ROWE & MAW LLP had in January of 2007 a patent docketing function at its office at 1909 K Street, N.W., Washington D.C and had a standard procedure that all mail from the USPTO without a specific attorney's name on it was brought to our docketing clerk for entry into our electronic patent docketing system, but that this firm has no record that the Notice to file Corrected Application Papers dated January 9, 2007 was ever been received by our office. No notice of its receipt was entered in our electronic patent docket system though it was standard practice for the docket clerk at this office as part of his routine duties to enter a notice of any such notice which this clerk received. Our docket record showing non-receipt of the Notice to file Corrected Application Papers dated January 9, 2007 is enclosed herewith.

Should any question regarding our standard procedure with regard to PTO mails, please contact the undersigned practitioner at the telephone number. For other issues, please contact the responsible attorney, Mr. Yoon S. Ham of Lowe Hauptman & Berner LLP (Customer No. 22429).

Respectfully submitted,

MAYER BROWN ROWE & MAW LLP

By: Lawrence S Pope

Registration No. 26,791

Date: 7/9/07

PAGE 8/12 * RCVD AT 7/9/2007 5:42:02 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/21 * DNIS:2738300 * CSID:7035185499 * DURATION (mm-ss):03-34

Country Application

Monday, June 04, 2007 Page: 1

Client.Matter:	123034.05004747	**Resp.Office:**	DC
Foreign Matter No.:	05004747	**Country:**	US
SubCase:			
Client:	Shin & Kim		United States of America
Case Type:	ORD	**Application Status:**	Transferre
Application Number:	10/913417	**Filing Date:**	09-Aug-2004
Publication Number:	05-0141812	**Publication Date:**	30-Jun-2005
Patent Number:		**Issue Date:**	
Parent/PCT Number:		**Parent/PCT Date :**	
Parent Patent Number:		**Parent Issue Date :**	
Tax Schedule:	SE	**Expiration Date:**	
Confirmation Number:	4675	**Patent Term Adjustment:**	10
Agent:			
Agent Reference No.:			

Remarks: PR: 312971-P0043
JH: P70002US0
SMALL ENTITY

RCE filed 5/15/06.

Files transferred to Yoon Ham, 3/1/07.

Country Application

Monday, June 04, 2007 Page: 2

List Of Actions

Action(s) Due	Due Date		Action Taken
Correct Appln. Papers (1mo)	05-Nov-2004	Reminder	05-Nov-2004
CK Receipt of OFR	09-Nov-2004	Reminder	05-Oct-2004
Information Disclosure Stmnt	09-Nov-2004	Due Date	09-Nov-2004
Correct Appln. Papers Due	05-Dec-2004	Due Date	24-Nov-2004
Information Disclosure Stmt	16-Dec-2004	Due Date	16-Dec-2004
Correct Appln. Papers Due+1EOT	05-Jan-2005	Due Date	24-Nov-2004
Correct Appln. Papers Due+2EOT	05-Feb-2005	Due Date	24-Nov-2004
Correct Appln. Papers Due+3EOT	05-Mar-2005	Due Date	24-Nov-2004
Correct Appln. Papers Due+4EOT	05-Apr-2005	Final	24-Nov-2004
Status Check - Public Notice	30-Jun-2005	Reminder	30-Jun-2005
Application Status Check	09-Aug-2005	Due Date	15-Jun-2005
IDS Status Check	01-Sep-2005	Reminder	01-Sep-2005
3 Month Action - Response due	15-Sep-2005	Due Date	01-Sep-2005
3 Month Action - 1st Extension	15-Oct-2005	Due Date	01-Sep-2005
3 Month Action - 2nd Extension	15-Nov-2005	Due Date	01-Sep-2005
3 Month Act (Final in 2 wks)	30-Nov-2005	Due Date	01-Sep-2005
3 Month Action - 3rd Extension	15-Dec-2005	Final	01-Sep-2005
3 Month Action - Response due	16-Feb-2006	Due Date	02-Feb-2006
Next Action fr Examiner due	01-Mar-2006	Reminder	16-Nov-2005
3 Month Action - 1st Extension	16-Mar-2006	Due Date	02-Feb-2006
3 Month Action - 2nd Extension	16-Apr-2006	Due Date	02-Feb-2006
3 Month Act (Final in 2 wks)	01-May-2006	Due Date	02-Feb-2006
3 Month Action - 3rd Extension	16-May-2006	Final	02-Feb-2006
IF/Drwgs Due in 1 month	21-Jun-2006	Reminder	15-May-2006
Continuing Application Due	21-Jul-2006	Reminder	15-May-2006
Formal Drawings Due	21-Jul-2006	Final	15-May-2006
Issue Fee Due	21-Jul-2006	Final	15-May-2006
Publication Fee Due	21-Jul-2006	Final	15-May-2006
Next Action from Examiner Due	02-Aug-2006	Reminder	21-Apr-2006
2 MONTH DRAWING WARNING	25-Oct-2006	Reminder	25-Sep-2006
Issue fee due 2 Months	25-Oct-2006	Reminder	01-Dec-2006
Next Action from Examiner Due	15-Nov-2006	Reminder	25-Sep-2006
1 Mo. - Publication fee due	25-Nov-2006	Reminder	01-Dec-2006

Country Application

Monday, June 04, 2007 Page: 3

1 MONTH DRAWING WARNING	25-Nov-2006	Reminder	25-Sep-2006
Issue fee due 1 Month	25-Nov-2006	Reminder	01-Dec-2006
DRAWINGS DUE	25-Dec-2006	Final	25-Sep-2006
ISSUE FEE DUE	25-Dec-2006	Final	01-Dec-2006
PUBLICATION FEE DUE	25-Dec-2006	Due Date	01-Dec-2006
FOLLOW UP - Publication fee	01-Jun-2007	Due Date	01-Mar-2007
US-ALLOWANCE Follow Up Date	01-Jun-2007	Due Date	01-Mar-2007

User ID: r2c

Date Created: 13-Sep-2004

Last Update: 13-Mar-2007

Actions Due

Monday, June 04, 2007 Page: 1

Client.Matter: 123034.05004747

SubCase:

Resp.Office: DC

Country: US United States of America

Case Type: ORD

Status : Transferre

Action Type: WDC-Next Action SC

Base Date: 15-May-2006

Response sent date: 25-Sep-2006

Action(s) Due	Due Date	Indicator	Taken
Next Action from Examiner Due	15-Nov-2006	Reminder	25-Sep-2006

Remarks:

User ID: pa012283

Date Created: 15-May-2006

Last Update: 26-Sep-2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Paek, et al. :
Application No. 10/913,417 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 123034-05004747 :
For: PLANAR FOCUSING GRATING COUPLER

This is a decision on the reconsideration petition, filed July 9, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

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

The Office contends that the above-identified application became abandoned for failure to submit a reply to the January 9, 2007 Notice to File Corrected Application Papers, which set a non-extendable 60 day period for reply. No reply being received, the Office considered this application abandoned on March 12, 2007. A Notice of Abandonment was mailed on May 22, 2007.

Petitioners allege that the January 9, 2007 Notice was not received at the correspondence address of record.

A review of the record indicates no irregularity in the mailing of the January 9, 2007 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is noted that applicants have submitted replacement drawings. As such, it is not necessary to re-mail the January 9, 2007 Notice to File Corrected Application Papers.

This application is being referred to Publications Division for review of the replacement drawings.

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

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

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Nobuhiko Kikuchi	: DECISION ON REQUEST FOR
Patent Number	: 7653311	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,432	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1299** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Oren et al. :
Application No. 10/913,447 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No.: 2786-0247PUS1 :
Title: Chordin-Like Homologs

This is a decision on the petition filed December 30, 2004, requesting in effect, that the Notice to File Missing Parts(s) in a Nonprovisional Application ("Notice") mailed November 1, 2004, be withdrawn.

The application was filed on August 9, 2004. However, on November 1, 2004, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of August 9, 2004 and advising applicant that page 39 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed. The petition contends that the application as filed contained 140 pages of specification which included page 39. Petitioner has submitted a copy of page 39 of the specification.

Applicants' postcard receipt is prima facie evidence that 140 sheets of specification including page 39 were received on August 9, 2004, but page 39 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 39 of the specification was received on August 9, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted page of specification. However, the Notice was correct regarding the requirement to submit an executed oath or declaration, surcharge fee, a statement required pursuant to 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d) and a copy of the "Sequence Listing" in computer readable form all of which remain outstanding.

Accordingly, the $130.00 petition fee will be refunded to Deposit Account 02-2448. No petition fee is due.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 9, 2004 using the 139 pages of specification submitted on August 9, 2004 and the substitute page 39 of the specification submitted with the petition on December 30, 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

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

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of
Nicolosi, Wu, and Kaskkoush
Application No. 10/913,457
Filed: September 1, 2004
Attorney Docket No. VERTE.0081-102
For: MEGASONIC PROCESSING SYSTEM WITH GASIFIED FLUID

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

This is a decision on the petition under 37 CFR 1.47(a) December 27, 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 September 1, 2004, and was not accompanied by a properly executed oath or declaration. On October 28, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed requiring an executed oath or declaration and payment of the surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on December 27, 2004.

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

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

(2) an acceptable oath or declaration in compliance with 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 (2) above.

As to item (2), a declaration executed by inventor Wu was not found among the instant petition papers, notwithstanding petitioner's assertion to the contrary. Any renewed petition must be accompanied by a declaration executed by inventor Wu, or statements and evidence establishing that inventor Wu is either unavailable or unwilling to join the prosecution of the application.

The petition fee of $130.00 will be charged to deposit account 50-1275.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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DEC 07 2004

OFFICE OF PETITIONS

In re Application of :
Yamazaki, et al. :
Application No. 10/913,467 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 07977-310002/US6128/625 :

This is a decision on the papers styled, "Response To Notice of Omitted Item(s) In a Nonprovisional Application," filed November 2, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 9, 2004, including pages 118 and 123 of the specification.

The application was filed on August 9, 2004 as a divisional of prior application number 10/318,793. The "Patent Application Transmittal" states the prior application is incorporated by reference. However, on October 12, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) In a Nonprovisional Application" that stated the application had been accorded a filing date, and that pages 118 and 123 of the specification appear to have been omitted.

In response, on November 2, 2004, the instant petition and copies of pages 118 and 123 of the specification were submitted. Petitioner states, "From a review of the file of the undersigned, it is unclear whether these two pages were submitted at the time of filing. However, since these pages were included in the parent U.S. Application No. 10/318,793, which was incorporated by reference in this application, applicant submits that, in the event that these pages were not included in the original filing, they may be reinserted in this application without jeopardizing the August 9, 2004, filing date of this application."

Furthermore, the incorporation by reference may be found in the section labeled "CROSS-REFERENCE TO RELATED APPLICATIONS" in the Preliminary Amendment as filed with the Application on August 9, 2004. Additionally, a copy of the declaration from the prior application was submitted on August 9, 2004. Petitioner contends the disclosure of prior application 10/318,793 was incorporated by reference.

A review of the application file indicates that pages 118 and 123 were not filed with the application papers on August 9, 2004. However, based on petitioner's representation that pages 118 and 123 of the specification supplied with the petition are part of the disclosure of prior application number 10/318,793 and that the disclosure of application number 10/318,793 was specifically incorporated by reference in the present application on August 9, 2004, it appears that pages 118 and 123 of the specification were present in the Office on August 9, 2004, albeit in the file of another application, i.e., application no. 10/318,793. Therefore, on petition, the application may be accorded the requested filing date, including pages 118 and 123 of the specification.

The petition is granted.

Please note, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date with pages 118 and 123 of the specification.

Of course, the primary examiner is expected to compare the copies of pages 118 and 123 of the specification supplied November 2, 2004 to the disclosure of prior application No. 10/318,793 in order to verify that pages 118 and 123 of the specification are, in fact, part of the disclosure of the prior application.

This application will be returned to OIPE for further processing with a filing date of August 2, 2004, using the copies of pages 118 and 123 of the specification, submitted November 2, 2004.

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

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

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MAIL

SEP 12 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Stevens Davis Miller & Mosher, LLP
1615 L Street NW
Suite 850
Washington, DC 20036

In re Application of
Hisao Koga, et al.
Application No. 10/913,495
Filed: August 9, 2004
For: **COMMUNICATION APPARATUS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 6, 2006 (duplicate copy filed July 20, 2006) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. The petition filed April 28, 2006 was unsigned.

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

The petition does not fulfill the requirement in item (6) in that the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b). Applicant's petition provides a generic discussion of each reference under section "A. Discussion of All References of Record"; however, this section does not fulfill the requirement of item (6) inasmuch petitioner does not point out with any particularity how the language of the claims patentably distinguish from the references. Furthermore, in looking at section "B. Discussion of How the Claimed Invention Patentably Distinguishes over the References of Record", while petitioner recites particular limitations of the independent claims, petitioner only provides a general allegation that the claims define a patentable invention. See for example, page 12 of the petition wherein petitioner states, for example, that "in view of the above discussion of the art of record, the art of record, whether considered alone or together, fails to teach or suggest the above-noted features of claims 1 and 3 and all claims which depend therefrom directly or indirectly".

Furthermore, a review of the International Search Report provided with the Information Disclosure Statement filed April 28, 2006 finds that the claim 1 limitations referenced by petitioner in section "B. Discussion of How the Claimed Invention Patentably Distinguishes over the References of Record", for example, are all listed as being fully disclosed by "X" reference WO/9810545. See detailed discussion of document D1 in the Search Report. Therefore, petitioner fails to provide discussion in compliance with 37 CFR 1.111(b) or (c); e.g. there are no

statements and/or arguments which point out specific distinctions believed to render the claims patentable over the applied references.

It is further noted that page 2 of the petition (under part (4)), refers to art cited in "Information Disclosure Statements filed July 13, 2004, March 14, 2005, and April 28, 2006.". However, a review of the file finds that these dates are not accurate. To clarify the record, Information Disclosure Statements were filed in the instant application on August 9, 2004 and April 28, 2006.

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

Should applicant desire reconsideration, he/she should supplement this petition by supplying the discussion necessary to comply with item (6) as outlined above; e.g. pointing out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the "X" cited prior art references of record. Alternatively, applicant may file an amendment with the request for reconsideration and include a discussion of how newly amended claims define over the prior art of record. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

MAIL

JAN 19 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Hisao KOGA, et al.
Application No. 10/913,495
Filed: August 9, 2004
For: **COMMUNICATION APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 6, 2006 (duplicate copy filed July 20, 2006) and the Supplemental Request for Reconsideration of Decision on Petition filed December 15, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

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

It is noted that the original petition decision set forth a two month period for response thereto. A draft, unsigned response was filed on the last day of the acceptable response period. While the Technology Center Director has in this particular instance agreed to accept the later, signed copy of the response filed on December 15, 2006, petitioner is reminded that in the future, any responses filed outside of the two month period for reply will not be accepted. Insofar as petitioner has stated that it was agreed that a 'draft copy' would be entertained, it should be noted that any such "draft" response must be submitted early enough within the pending period for reply to any action and/or petition decision to allow time for discussion and/or changes (if necessary) such that an official, signed copy of the reply may then be timely filed within the allotted period for reply. Respondent's delay in filing such a "draft" response will not extend the period for submitting an official, signed response.

A further review of the file finds that a first restriction requirement was mailed by the examiner on December 12, 2006. Subsequent to that, a second restriction requirement was mailed by the examiner on January 10, 2007. In order to clarify the record, the first restriction requirement is hereby vacated inasmuch as it failed to address all the pending claims of record.

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.

Applicant is reminded that the shortened statutory period to respond to the restriction requirement mailed January 10, 2006 is set to expire on February 10, 2007.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Adams et al.	:	
Application No. 10/913,499	:	ON APPLICATION FOR
Filed: 08/09/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 13210-841/KL	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed December 22, 2008, and the APPLICATION FOR PATENT TERM ADJUSTMENT AMENDED filed January 28, 2009. Applicant requests that the determination of patent term adjustment be corrected from 650 days to 970 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on August 7, 2008.

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,506,164	:	
Adams et al.	:	
Issue Date: March 17, 2009	:	DECISION ON REQUEST FOR
Application No. 10/913,499	:	RECONSIDERATION OF
Filed: August 9, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 13210-841/KL	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed May 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be corrected from six hundred fifty (650) days to nine hundred seventy (970) days.

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

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,506,164 with a patent term adjustment of 650 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).

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:

> Under 37 C.F.R. 1.703(f), and in view of the construction adopted in *Wyeth v. Dudas,* Applicants respectfully submit that the correct patent term adjustment for the above-noted Patent is 970 days, equal to: 712 days ("A" delay) plus 363 days ("B" delay) less 62 days (Applicant delay) less 43 days (overlap). As per the approach set out in *Wyeth v. Dudas,* overlap is calculated as the lesser of

(i) the part of the "A" delay incurred after the initial 3-year period following filing of the application and (ii) the "B" delay.

Application dated 05/13/09 p. 3.

Initially, the Office notes that patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as 363 days. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 364 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), August 10, 2007, and ending on the date the request for continued examination ("RCE") was filed, August 7, 2008. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR 1.703(b)(1). The Office will use the correct period of adjustment pursuant to 37 CFR 1.702(b) ("Three Year Delay") of 364 days in this decision.[1]

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[1] The period of adjustment under 37 CFR 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued but not including the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)

(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed;

Patentees assert that in addition to this 364-day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 712 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). A nonfinal Office action was mailed on September 21, 2007, 14 months and 712 days after the application was filed on August 9, 2004.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 62 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Year Delay terminated by the filing of a RCE and the period of Examination Delay (712 days) to the extent that these periods of delay are not overlapping. Considering the correct number of days for Three Year Delay, patentees, in essence, maintain that the total period of

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(iii) The number of days, if any, in the period beginning on the date applicant was notified that interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

37 CFR 1.703(b).

adjustment for Office delay is 1,076 days, which is the sum of the period of Three Year Delay (364 days) and the period of Examination Delay (712 days), reduced by the period of overlap (43 days). As such, patentees, in essence, assert entitlement to a patent term adjustment of 971 days (364 + 712 reduced by 43 overlap - 62 (applicant delay)).

Patentees' arguments have been considered, but are not persuasive. The Office maintains that as of the filing of the RCE on August 7, 2008, the application was pending three years and 364 days after its filing date. Further, the Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 712 days is correct. At issue is whether patentees should accrue 321 days of patent term adjustment (per patentees' definition of overlap) for the Office taking in excess of three years to issue the patent, as well as, 712 days for Office failure to take a certain actions within a specified time frame (or Examination Delay).

The Office contends that all 364 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent

term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

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

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-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).

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 period from the filing of the application on August 9, 2004, to the date of the filing of the RCE on August 7, 2008. The period of delay of 364 days for the Office taking in excess of three years to issue the patent overlaps with the 712 days accorded pursuant to 37 CFR 1.702(a)(1) during the pendency of the application prior to the filing of the RCE. The period of 712 days is considered the actual number of days that the issuance of the patent was delayed, considering the 364 days over three years to the filing of the RCE. As the 712 days had already been accorded, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges the $200.00 fee set forth in 37 CFR 1.18(e) previously paid on December 22, 2008. No additional fees are required.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Applicant: Foss et al.
Appl. No.: 10/913,501
Filing Date: August 9, 2004
Title: METHODS AND COMPOSITIONS FOR SEAMLESS CLONING OF NUCLEIC ACID MOLECULES
Attorney Docket No.: 0942.5810002/BJD/JKM
Pub. No.: US 2005/0069929 A1
Pub. Date: March 31, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 25, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication because the last name of the first inventor "Chesnut" is misprinted as "Chestnut".

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

The typographical error in the inventor's last name on the front page of the publication is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

To avoid this type of problem in the future, applicants' representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Furthermore, these are not material errors since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

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In re Application of FARIES, et al. U.S. Application No.: 09/380,507 PCT No.: PCT/US98/04199 Int. Filing Date: 3 March 1998 Priority Date: 3 March 1997 Attorney Docket No.: C0221.MSI For: METHOD AND APPARATUS FOR PRESSURE INFUSION AND TEMPERATURE CONTROL OF INFUSED LIQUIDS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(a)" filed 24 April 2000.

BACKGROUND

On 3 March 1998, applicant filed international application PCT/US98/04199, which claimed priority of an earlier United States application filed 3 March 1997. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 October 1998, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 September 1999.

On 03 September 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 22 November 1999, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors and a surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to Items (1), applicants have enclosed a check for the required petition fee of $130.00.

Regarding Item (2), a review of the present petition and the accompanying papers reveals that the applicant has satisfied Item (2), in that, the applicant has shown that a *bona fide* attempt was made to present the application papers, including the specification, claims, and drawings to Mr. George T. DuBose, Jr. and that these materials have not been executed and returned. Additionally, in separate telephone conversations with Mr. Stuart B. Shapiro, esq. and Mr. Bruce Heymann, Mr. DuBose stated that he would not sign the application papers.

As to Item (3), the petition states the last known address of the non-signing inventor.

Regarding Item (4), accompanying the petition is a declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor. Accordingly, all the items have been satisfied and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

Applicants' petitions under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 3 March 1998 under 35 U.S.C. 363, and a date of 24 April 2000 under 35 U.S.C. 371(c) and 102(e).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Leonard E. Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (George T. DuBose, Jr.) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US98/04199 and was filed on 3 March 1998 in the name of Durward I. Faries, Jr.; Calvin Blankenship; Bruce Haymann and George T. DuBose, Jr. for the invention entitled METHOD AND APPARATUS FOR PRESSURE INFUSION AND TEMPERATURE CONTROL OF INFUSED LIQUIDS. The national stage application number is 09/380,507 and has a 35 U.S.C. 371 date of 24 April 2000.

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OFFICE OF PETITIONS

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In re Application of	:	
Wang	:	DECISION
Application No. 10/913,545	:	
Filing Date: 9 August, 2004	:	
Attorney Docket No.: 3377-P-16025	:	

This is a decision on the petition filed on 30 October, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

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 petitions as considered under 37 C.F.R. §1.181 are **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 5 May, 2006, with reply due under a non-extendable deadline on or before Monday 7 August, 2006;

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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.**

- the application went abandoned by operation of law after midnight 7 August, 2006;
- the Office mailed the Notice of Abandonment on 11 September, 2006;
- on 30 October, 2006, Petitioner filed the instant petition, recited that the Office appeared to have ignored the Revocation/Power of Attorney filed of record on 17 April, 2006 which paper appears in the record), and Petitioner provided a copy of that Revocation/Power and of the date-stamped (17 April, 2006) receipt card (see: MPEP §503[2]) evidencing receipt thereof by the Office, and a copy of Petitioner's docket record evidencing materials due on the 7 August, 2006, and there is no indication of a listing there for the instant application–and Petitioner so states and thus appears to comply with the practice set forth in the Commentary at MPEP §711.03 (c) (discussed below), and thus the Notice could not have been and was not received when mailed, and Petitioner further requests that the Notice of Allowance/Allowability and Fees Due be re-mailed and the period of reply restarted.

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[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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.[3]

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[4] 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.

[5] 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.

[6] 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).

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

[8] 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.

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

of a holding of abandonment.[10]

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.

* **

<u>The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt</u> 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

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[10] <u>See</u>: <u>Delgar v. Schulyer</u>, 172 USPQ 513 (D.D.C. 1971).

> required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirement described above and satisfied his burden herein.

CONCLUSION

The instant petition under 37 C.F.R. §1.181 hereby is **granted**; and the 11 September, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing in due course–including the re-mailing of the Notice of Allowance/Allowability and Fees Due with an appropriate period of reply thereafter.

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[11]) 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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[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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SEP 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Katsuhiko Nuno, et al.	:	
Application No. 10/913,549	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No.: 256911US3	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2873 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No 10/913,561 No.: 7,593,356

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

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

Comments: Title being changed from "Channels Across Multiple Access Elements" to "Channels Across Multiple Radios"

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

AU 2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Robert J. Friday	: DECISION ON REQUEST FOR
Patent Number	: 7593356	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **529** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of	:	
WARDIMON, Yavor E.	:	
Application No. 10/913,585	:	DECISION ON PETITION
Filed: August 05, 2004	:	TO WITHDRAW
Attorney Docket No. **1005-22-01 USP**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 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 F. Jason Far-hadian on behalf of all attorneys of record who are associated with customer No. 42698. All attorneys/agents associated with the Customer Number 42698 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.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **YAVOR E. WARDIMON**
14 HAAGASIM ST.
BINYAMINA ISRAEL 30500

cc: **IXI MOBILE (R&D), LTD**
P.O. BOX 2543, 17 HA 'TIDHAR ST.
RA'ANANA 43665
ISRAEL

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Glenn P. Richards
DOWREY RICKARDS PLLC
Suite 106
19119 North Creek Parkway
Bothell, WA 98011

MAILED

JAN 04 2007

Technology Center 2100

In re Application of: Frederick H. Blake
Application No. 10/913,588
Filed: August 06, 2004
For: ANTI-CYCLING CONTROL SYSTEM FOR LUMINAIRES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(IV): APPLICANT'S AGE

This is a decision on the petition, filed August 06, 2004 under 37 C.F.R. 1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(c), and M.P.E.P. §708.02, Section IV, must include evidence showing that the applicant is 65 years of age or more. Evidence in the form of a birth certificate or applicant's statement is sufficient. There is no fee required for such a petition.

The petition filed August 06, 2004 includes a statement that applicant is more than 65yrs of age, thus the requirements set forth above are met.

The petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02, "Handling of Petitions To Make Special" and M.P.E.P. §1309.

Michelle R. Eason per

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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WILLIAM E. HILTON
GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

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JUN 21 2007
OFFICE OF PETITIONS

In re Application of	:	
O'DONNELL et al.	:	
Application No. 10/913,593	:	DECISION ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. ODonnell.7622	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed January 27, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2006.

The instant petition was filed on the basis that a response to the Notice of Non-Compliant Amendment mailed on January 27, 2006 was sent to the USPTO on February 2, 2006. Petitioner submitted as evidence a copy of the response containing a certificate of mailing under 37 CFR 1.8(a) signed by Meghan H. Carr and a statement by Meghan H. Carr stating she mailed the response on February 2, 2006 pursuant to 37 CFR 1.8(b).

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $250 for small entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to the Technology Center Art Unit 3754 for appropriate action on the amendment filed with the instant petition on August 18, 2006.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-23-08

TO SPE OF : **Technology Center** 3754 10/913593

SUBJECT : Request for Certificate of Correction on Patent No.: 7325575 B1

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.

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

Comments:
The information is correct.

SPE

3754
Art Unit

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Paper No.

SHAY LAW GROUP LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Khairkhahan et al.	:	DECISION ON PETITION
Application No. 10/913,608	:	
Filed: August 5, 2004	:	
Atty Docket No. 10078-704.201	:	

This is a decision on the PETITION UNDER 37 CFR 1.182 TO CHANGE ORDER OF INVENTORS filed April 9, 2007.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

1. Alexander KHAIRKHAHAN
2. Serjan D. NIKOLIC
3. Branislav RADOVANCEVIC
4. Hugh R. SHARKEY

A filing receipt reflecting this change is enclosed.

Receipt of the petition fee of $400 is acknowledged.

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: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/913,608	08/05/2004	3731	1329	10078-704.201	47	9

CONFIRMATION NO. 3947

CORRECTED FILING RECEIPT

OC000000024717651

66854
SHAY LAW GROUP LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Date Mailed: 07/09/2007

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)

Alexander Khairkhkahan, Palo Alto, CA;
Serjan D. Nikolic, San Francisco, CA;
Branislav Radovancevic, Houston, TX;
Hugh R. Sharkey, Redwood, CA;

Assignment For Published Patent Application

CardioKinetix, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **66854**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/913,608

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Ventricular partitioning device

Preliminary Class

623

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:082708

DATE : August 28, 2008

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction on Patent No.: 7390349

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:

All changes apply. Thanks, Primary Examiner /Robert Hopkins/

SPE: Duane Smith **Art Unit** 1797

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

Aleksandr I Kamenomostski
3100 Ocean Parkway
Apt. B30
Brooklyn NY 11235

COPY MAILED

AUG 0 4 2008

In re Application of
Kamenomostski
Application No. 10/913,616
Filed: August 6, 2004
Attorney Docket No. 23020
For: THIN-WEBBED PROFILE MEMBER AND PANEL BASED ON IT (VARIANTS)

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed May 23, 2008, to withdraw the holding of abandonment.

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

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

The above-identified application became abandoned for failure to submit a timely reply to the August 10, 2007 non-final Office action, which set a three month extendable period for reply. Petitioner submitted a check for $450.00 and an amendment on February 1, 2008. A Notice of Abandonment was mailed on April 18, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a proper reply to the August 10, 2007 non-final Office action was timely received.

37 CFR 1.136(a)(2) states, in pertinent part: The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid.

Petitioner is reminded that the August 10, 2007 non-final Office action set a three month extendable period for reply. When applicant filed his reply on February 1, 2008, a three month extension of time was required to make the reply timely filed. Applicant paid $450.00, which is $10.00 short of the $460.00 two month extension of time fee. Extensions of time may not be waived. The application became abandoned on November 11, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

The undersigned strongly suggests filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The Rule 137(b) petition fee is $770.00. The $450.00 improper extension of time fee will be applied towards the $770.00 Rule 137(b) fee. Thus, a $320.00 balance will be due with with Rule 137(b) petition. For petitioner's convenience, a blank copy of the form – PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFF 1.137(b) – is enclosed.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: blank copy of the form – PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFF 1.137(b)

Privacy Act Statement

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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

Aleksandr I Kamenomostski
3100 Ocean Parkway
Apt. B30
Brooklyn NY 11235

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kamenomostski
Application No. 10/913,616
Filed: August 6, 2004
Attorney Docket No. 23020
For: THIN-WEBBED PROFILE MEMBER AND PANEL BASED ON IT (VARIANTS)

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to submit a timely reply to the August 10, 2007 non-final Office action, which set a three month extendable period for reply. Petitioner submitted a check for $450.00 and an amendment on February 1, 2008. The application became abandoned on November 11, 2007. A Notice of Abandonment was mailed on April 18, 2008.

Applicant has submitted an amendment in reply to the August 10, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 10, 2007 non-final Office action, and the petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3635 for consideration of the amendment filed on February 1, 2008.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. Whiteford et al.	:	
Application No. 10/913,634	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 27, 2006.

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

A review of the file record indicates that the power of attorney to Charles D. Holland and all attorneys/agents of record has been revoked by the assignee of the patent application on February 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Finnegan, Henderson, Farabow, Garrett
& Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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

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JUL 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,368,564	: ON PETITIONS under
Issued: May 6, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 10/913,634	: FOR RECONSIDERATION OF
Filed: August 6, 2004	: PATENT TERM ADJUSTMENT
Dkt. No.: 10377.0004-00000	:

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 Determination of Patent Term Adjustment – Post Grant, both filed on October 31, 2008.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 6, 2008, the above-identified application matured into U.S. Patent No. 7,368,564, with a revised patent term adjustment of 277 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 references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 6, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 31, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 6, 2008, the date two months from the date this patent issued, May 6, 2008. Rather, on October 31, 2008, one month after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary 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 has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner 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 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

---

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.

decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen 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. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner 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.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT – POST GRANT," filed October 31, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 551 days.

On May 6, 2008, the above-identified application matured into U.S. Patent No. 7,368,564 with a revised patent term adjustment of 277 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on October 31, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

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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SEP 29 2009

OFFICE OF PETITIONS

CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of	:	
LANDO, Noam I.	:	
Application No. 10/913,643	:	DECISION ON PETITION
Filed: August 05, 2004	:	TO WITHDRAW
Attorney Docket No. **1005-23-01 USP**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 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 Farshad Far-Hadian on behalf of all attorneys of record who are associated with customer No. 42698. All attorneys/agents associated with the Customer Number 42698 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 or the assignee of the entire interest 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 August 21, 2009 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: **NOAM I. LANDO**
7 SHAZAR ST.
HASHARON ISRAEL 10913643

cc: **IXI MOBILE (R&D), LTD**
P.O. BOX 2543
17 HA TIDHAR ST.
RA'ANANA 43665

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/913,659	08/09/2004	Ralph Yerian	1473	4115

7590 11/01/2004

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

EXAMINER

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 11/01/2004

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

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Paper No. 101804

OCT 26 2004

John D. Gugliotta, P.E. Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

In re Application of:	:	
Ralph Yerian	:	DECISION ON PETITION
Serial No.: 10/913,659	:	TO MAKE SPECIAL
Filed: August 09, 2004	:	
Attorney Docket No.: **1473**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 09, 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 Ralph Yerian, 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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2040 MAIN STREET
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IRVINE CA 92614

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Braig, Rule, Hartstein, and : DECISION ACCORDING STATUS
Smith : UNDER 37 CFR 1.47(a)
Application No. 10/913,666 :
Filed: 6 August, 2004 :
Atty Dckt No. OPTIS.109A

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 2 June, 2005 (certificate of mailing 31 May, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Heidi S. Smith, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the statement of facts by joint inventor James R. Braig, that a copy of the application papers were sent to joint inventor Smith at her last known address on three (3) occasions, but that she failed to execute and return the declaration naming her as a joint inventor along with James R. Braig, Peter Rule, and Philip C. Hartstein.

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

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

The application is being referred to Technology Center Art Unit 3736 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIW Jun-05

Heidi S. Smith
32931 Monrovia Street
Union City CA 94587

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of
Braig et al.
Application No. 10/913,666
Filed: 6 August, 2004
For: SAMPLE ELEMENT WITH BARRIER MATERIAL AND VACUUM

Dear Ms. Smith:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

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TO:	Douglas Wood
FIRM:	UNITED STATES PATENT & TRADEMARK OFFICE – Office of Petitions
FACSIMILE NO.:	703-872-9306
OUR REF.:	OPTIS.109A
YOUR REF.:	U.S. Application No. 10/913,666; Filed August 6, 2004
FROM:	Josué A. Villalta; Registration No. 54,511
OPERATOR:	Lindsay Mingee NO. OF PAGES: 4 (incl. cover sheet)
DATE:	June 27, 2005 TIME:

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MESSAGE: PER YOUR REQUEST TODAY, PLEASE FIND AN ATTACHED COPY OF THE MARCH 30, 2005 NOTICE OF DISMISSAL IN THE ABOVE-REFERENCED CASE.

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OFFICE OF PETITIONS

In re Application of	:	
Braig, Rule, Hartstein, and Smith	:	DECISION REFUSING STATUS
Application No. 10/913,666	:	UNDER 37 CFR 1.47(a)
Filed: 6 August, 2004	:	
Atty Docket No. OPTIS.109A	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 22 February, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on 6 August, 2004, without an executed oath or declaration. Accordingly, on 18 October, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 22 February, 2005 (certificate of mailing 18 February, 2005), petitioners filed a two (2) month extension of time, the present petition, the late-filing surcharge, and a declaration naming James R. Braig, Peter Rule, Philip C. Hartstein, and Heidi S. Smith as joint inventors and signed by

all inventors except Smith on behalf of themselves and non-signing joint inventor Smith.

Petitioners assert that joint inventor Smith has failed to sign the declaration. In support, petitioners have provided a statement of facts by joint inventor Braig, stating that he sent a copy of the declaration to non-signing joint inventor Smith, but that she did not execute and return it.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (1).

In regards to item (1), petitioners have not shown that joint inventor Smith was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Based on the showing of record, it does not appear that the specification, including claims, and the drawings, were among the application papers sent to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in

[1] MPEP 409.03(d).

writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth David Schatz	:	
Application Number: 10/913681	:	DECISION DISMISSING PETITION
Filing Date: 08/05/2004	:	
Attorney Docket Number:	:	
03424.P050D	:	

This is a decision in reference to the "PETITION TO CORRECT FILING RECEIPT PURSUANT TO CFR § 1.10(C)," filed on September 28, 2007.

The petition is **DISMISSED**.

Petitioners assert that Application No. 09/953,639, to which the present application claims benefit, was deposited in Express Mail Service on 12 September, 2001, but was incorrectly given a filing date of 17 September, 2001, because the USPTO did not accord the date of deposit in Express Mail "Post Office to Addressee Service" as the filing date of the prior-filed application, in accordance with 37 CFR 1.10.

37 CFR 1.4(b) states:

> Since each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

As such, since this petition pertains to the filing date of the prior-filed application, No. 09/953,639, the petition must be filed in that application.

Since petitioner does not dispute the filing date assigned to the present application, the petition is **dismissed** as inappropriate.

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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Parsons Behle & Latimer
Suite 1800
201 South Main Street
P.O. Box 45898
Salt Lake City, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Calvin D. Ostler et al.	:	
Application No. 10/913,702	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO WITHDRAW
Attorney Docket No. GDCAO01P	:	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 17, 2007 & February 8, 2007.

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

A review of the file record indicates that the power of attorney to Parsons Behle & Latimer has been revoked by the assignee of the patent application on February 22, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Geoffrey E. Dobbin, Patent Attorney**
4278 South 6220 West
West Valley City, UT 84128-6501

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/913,714	08/06/2004	Rebecca L. Smith	AD7034 USNA	4158

23906 7590 12/05/2007
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
SHEWAREGED, BETELHEM

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
12/05/2007	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

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Mailed: 12-5-07

caf

In re application of
REBECCA L. SMITH et al.
Serial No. 10/913,714
Filed: August 6, 2004
For: DECORATIVE LAMINATED SAFETY GLASS UTILIZING A RIGID INTERLAYER AND A PROCESS FOR PREPARING SAME:

DECISION ON PETITION

This is a decision on the PETITION FOR WITHDRAWL OF FINALITY OF THE OFFICE ACTION UNDER 37 CFR 1.181, mailed October 5, 2007.

On August 10, 2006, a non-final office action was mailed to applicants. A reply to the office action was filed on May 21, 2007 (after two non-compliant attempts). In the reply, applicants amended claims 1, 3-11, 13-16 and 20 and added new claims 22-31. On August 8, 2007 a final office action was mailed. The previous rejection was withdrawn and a new ground of rejection was added. The examiner stated in the office action that the new ground of rejection was necessitated by Applicant's amendments to the claims and the office action was made final. On October 5, 2007, the instant petition was filed.

Petitioner has argued that the finality of the office action mailed August 8, 2007 is improper. Petitioner argues that first, the rejections were not based on information submitted in an IDS filed during the period set forth in 37 C.F.R. §1.97(c) and second, were not necessitated by the amendments because the claims were amended to include limitations which should reasonably have been expected to be claimed.

Petitioner states that all of the amendments presented inserted features into the claims. Hence, to the extent that the rejection was appropriate for the amended claims it would also have been appropriate for the claims presented previously. Therefore, the new grounds were not caused by the amendments and were instead caused by the Patent Office's failure to present the rejection sooner. Further, petitioner states the limitations added by amendment were all taken from other claims and thus should have reasonably been expected to be claimed. Therefore, the amendments did not necessitate the new grounds for rejection.

DECISION

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).

Section 706.07(b) of the MPEP states:
A second or any subsequent action on the merits in any application...should not be made final if it includes a rejection, on prior art of record, of any claim amended to include limitations which should reasonably have been expected to be claimed

The non-final office action of August 10, 2006 contained proper rejections under obvious double patenting, 35 USC 102 and 35 USC 103. Applicants amended claims and added new claims in the response of May 21, 2007.

First, it is agreed that the rejections as set forth in the office action of August 8, 2007 are not based on information submitted in an IDS filed during the period set forth in 37 C.F.R. §1.97(c).

Second, it is noted that amendments were made to the claims in the response filed May 21, 2007. An analysis is necessary to determine whether the new ground of rejection is necessitated by applicants' amendments and whether the amendments should reasonably have been expected to be claimed.

It is noted that claim 9 was amended to include the process steps from original claim 1, claim 9 was also amended to include the ionomers from original claim 2. The addition of the process steps could have been reasonably expected by the examiner since claim 9 was originally dependent on claim 1. However, the examiner could not have reasonably expected claim 9 to be amended to include the limitations of claim 2. It is also noted that claim 13 and 14 were amended to include the ionomers from original claim 2. The above amendments could not have been reasonably expected to be claimed by the examiner upon issuance of the non-final rejection and thus do not preclude making the office action of August 8, 2007 a final rejection.

Finally, petitioner states that all of the amendments presented, inserted features into the claims. Hence, to the extent that the rejection was appropriate for the amended claims it would also have been appropriate for the claims presented previously. Therefore, the new grounds were not caused by the amendments and were instead caused by the Patent Office's failure to present the rejection sooner. Therefore, the amendments did not necessitate the new grounds for rejection. This argument is not persuasive. The Office cannot present every possible rejection in an office action. Thus, the fact that an examiner makes a new rejection over a reference to reject amended claims does not preclude making the rejection final even if the reference could have been applied to the original claims in an earlier action.

Accordingly, the finality of the August 8, 2007 office action was proper. The request to withdraw the finality is **DENIED.**

Jacqueline M. Stone

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

WHITEFORD, TAYLOR & PRESTON
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

COPY MAILED

DEC 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Eddie E. Allen et al	:	
Application No. 10/913,744	:	DECISION GRANTING PETITION
Filed: August 6, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 081462.00001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of December 20, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2851.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/06/09

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10913754 Patent No.: 7335359 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

_____ **SPE**

1643 **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/913,755	08/06/2004	James L. Chappuis	4002-3591/PC664.02	4420

52196 7590 08/13/2009
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER
GEORGE, TARA R

ART UNIT	PAPER NUMBER
3733	

MAIL DATE	DELIVERY MODE
08/13/2009	PAPER

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

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

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

In re Application of:	
CHAPPUIS, JAMES L. et al	
Serial No.: 10/913,755	
Filed: August 6, 2004	
Docket: 4002-3591/PC664.02	DECISION ON PETITION
Title: SURGICAL INSTRUMENTATION AND METHOD FOR FORMING A PASSAGE IN BONE HAVING AN ENLARGED CROSS-SECTIONAL PORTION	

This is a decision on the petition filed on July 17, 2009 seeking withdrawal of the finality of the Office action mailed June 24, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record shows that claim 77 was amended in independent form without adding other limitations in the Rule 1.111 amendment filed on April 9, 2009. Therefore, the rejection of at least claim 77 was not necessitated by the amendment filed on April 9, 2009. As such, the finality of the Office actions issued on June 24, 2009 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on June 24, 2009 will be designated as non-final Office action. The period to respond to the Office action of June 24, 2009 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed June 24, 2009 is hereby withdrawn. The requested relief is granted.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

03-31-05

IFW

OIPE JC163 MAR 3 0 2005 PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

MAILED FROM DIRECTOR'S OFFICE APR 0 4 2006 TECHNOLOGY CENTER 3600

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/913,764
Filing Date	08/07/2004
First Named Inventor	Douglas Williams
Art Unit	3635
Examiner Name	
Attorney Docket Number	0020-001

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

APPROVED 4/4/06

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: I have accepted a position as in-house counsel at Circle Group Holdings, Inc. Further representation in this matter would be inappropriate.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name					
Address	940 Pebble Drive				
City	Wheeling	State	Illinois	Zip	60090
Country	United States				
Telephone	847-541-1126			Fax	
Signature					
Name	Timothy J. Fullin			Registration No.	50685
Date	3-30-05			Telephone No.	(847) 573-9880

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.

DECLARATION

As the below named inventor, I hereby declare that my residence, mailing address, and citizenship are as stated below.

I believe I am the sole, original and first inventor of the subject matter that is claimed and for which a patent is sought on the invention entitled:

CONSTRUCTION UNIT SUITABLE FOR MAKING REGULAR AND IRREGULAR POLYHEDRAL STRUCTURES

The specification for the above named device is attached hereto.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims. I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37 of the Code of Federal Regulations section 1.56.

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 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name: Douglas Williams

Residence: 940 Pebble Drive
Wheeling, Illinois 60090

Citizenship: United States citizen

Signature: Douglas Williams

August 6 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: 7585326	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BLACK LOWE & GRAHAM, PLLC
Suite 4800
701 Fifth Avenue
Seattle, WA 98104

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of David R. Beck Application No. 10/913,785 Filed: August 7, 2004 Attorney Docket No. BECK-1-1002	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Missing Parts of Non-Provisional Application mailed October 4, 2004. Accordingly, a Notice of Abandonment was mailed on June 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an executed oath/declaration with the $65 surcharge, $125 for the utility application size fee, $100 for the examination fee, $250 for the search fee, and $75 for the basic filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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701 Fifth Avenue
Suite 4800
Seattle, WA 98104

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APR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
David R. Beck	:	
Application No. 10/913,785	:	DECISION ON PETITION
Filed: August 7, 2004	:	TO WITHDRAW
Attorney Docket No. BECK-1-1002	:	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, 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 Mark L. Lorbiecki on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Mark L. Lorbiecki at the address indicated below.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **David R. Beck**
11 Mule Deer Lane
Anaconda, MT 59711

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
10/913,785	08/07/2004	David R. Beck	BECK-1-1002

CONFIRMATION NO. 3502

POWER OF ATTORNEY NOTICE

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

OC000000035424559

Date Mailed: 04/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2009.

- 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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ANTOINETTE M. TEASE
P. O. BOX 51016
BILLINGS MT 59105

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OFFICE OF PETITIONS

In re Application of

David R. Beck

Application No. 10/913,785

Filed: August 7, 2004

Attorney Docket No. BECK-1-1002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The renewed petition is **GRANTED**.

A final Office action was mailed in the above-cited application on June 16, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Appeal was filed on November 17, 2008, with a request for an extension of time within the second month month. An appeal brief was not timely filed thereafter. The application became abandoned on November 17, 2008.

The Request for Continued Examination, filed August 20, 2009, is noted and made of record.

The request for an extension of time within the third month made August 20, 2009, is noted, but cannot be granted as the request was made outside the maximum statutory period for filing an appeal brief after the filing of a notice of appeal. It is also noted that the monies for the request for an extension of time within the third month cannot be applied retroactively to the request for extension of time within the second month filed November 17, 20008. The amount of $310.00 will be refunded, in due course.

The application is being forwarded to Technology Center 3600, GAU 3679 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

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OFFICE OF PETITIONS

In re Application of

Wilson, et al.

Application No. 10/913,793

Filed: August 6, 2004

Attorney Docket No. 250-P0001

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 29, 2008.

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

This application was held abandoned on May 23, 2008, after it was believed that a proper response was received to the non-final Office action mailed February 22, 2008, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed September 30, 2008.

Petitioner maintains that a proper and timely response to the non-final Office action was deposited with the United States Postal Service, first class mail on August 22, 2008. As evidence of the same, petitioner provides a copy of the response containing a certificate of mailing dated August 22, 2008, and an authorization to charge deposit account 50-1556 for three-month extension of time necessary to make the response timely.

Petitioner's argument has been considered and is persuasive. Section 711.03(c) of the MPEP provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into

PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

A review of the response reveals that it contains a certificate of mailing dated August 22, 2008, that is signed by Stephen Bongini who also signed the petition document. Petitioner properly used the protections offered by 37 CFR 1.8 and is, therefore, entitled to assert that the response mailed August 22, 2008, is timely by virtue of the certificate of mailing dated August 22, 2008, contained thereon. The petition is granted, accordingly[1].

Deposit account 50-1556 will be charged $1,050.00 for the extension of time within the third month necessary to make the amendment timely.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded to Technology Center 2100, GAU 2157 for further processing including consideration of the amendment filed September 18, 2008 (certificate of mailing dated August 22, 2008.)

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] A review of the application file history reveals that a response to the non-final Office action is of record in the application as of September 18, 2008. Thereon is noted a certificate of mailing under 37 CFR 1.8 dated August 22, 2008.

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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	:	
Fogelman et al.	:	
Application No. 10/913,800	:	DECISION ON REQUEST FOR
Filed: August 6, 2004	:	REVOCATION OF POWER
Attorney Docket No. UCLAP014X1.US	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed January 15, 2008.

The request is **NOT APPROVED**.

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

The instant request cannot be approved because the Request to Revoke has not been signed by all the assignees or the applicants. See *MPEP § 402.10.*

In view of this decision and the granting of the Request to Withdraw as Attorney or Agent, filed on December 12, 2007, by the Quine Intellectual Property Law Group, the correspondence address has been changed to that of Mr. Alan M. Fogelman, the first named inventor. A courtesy copy of this decision is being mailed to the last known address of Mr. Fogelman as stated in the declaration filed August 6, 2004.

All future communications from the Office will continue to be directed to the above-noted correspondence address until otherwise notified by applicant. Courtesy copies of this decision are being mailed to both the assignees of record and to Mr. Fogelman, the first named inventor in the instant application.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Alan M. Fogelman
481 Hillgreen Drive,
Beverly Hills, California 90212

Manager, Patent Prosecution,
The Regents of the University of California
1111 Franklin Street, 12th Floor
Oakland, CA 94607-5200

The University of Alabama Research Foundation
701 South 20th Street, Suite 1120G
Birmingham, AL 35291 - 0111

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OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of
Fogelman et al.
Application No. 10/913,800
Filed: August 6, 2004
Attorney Docket No. 407T-911320US

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 17, 2007.

The request is **APPROVED**.

The Request to Withdraw satisfies 37 CFR 10.40 (b) (4) and is granted.

The Power of Attorney filed January 15, 2008 is not accepted as it has not been signed by all the assignees of record. See *MPEP § 402.10*. As a result, the correspondence address has been changed to that of Mr. Alan M. Fogelman, the first named inventor. A courtesy copy of this decision is being mailed to the last known address of Mr. Fogelman as stated in the declaration filed August 6, 2004.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Alan M. Fogelman
481 Hillgreen Drive,
Beverly Hills, California 90212

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GLORIA GREMILLION
650 CALIFRONIA STREET
PORT ALLEN, LA 70767

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Gloria Gremillion	:	
Application No. 10/913,831	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 22, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 does not include a signature.

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 undersigned at 571-272-1642.

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

The application is being forwarded to the Technology Center Art Unit 1744 for action in its regular turn.

April Wise

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
www.uspto.gov

GLORIA GREMILLION
650 CALIFORNIA ST.
PORT ALLEN, LA 70767

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Gloria Gremillion	:	
Application No. 10/913,831	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1744 for action on the merits commensurate with this decision.

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

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AUG 2 7 2009

OFFICE OF PETITIONS

In re Application of	:	
James POLIMADEI	:	
Application No. 10/913,851	:	DECISION ON PETITION
Filed: August 06, 2004	:	
Attorney Docket No. **30017380.6000**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 September 03, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction on September 03, 2008 is accepted as having being unintentionally delayed.

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

This application is being referred to Technology Center AU 2863 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Ahmed E. Hassan	: DECISION ON REQUEST FOR
Patent Number	: 7609659	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1482** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KILPATRICK STOCKTON LLP - 41305
CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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JUL 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,501,538	:	
MJALLI et al.	:	DECISION DISMISSING
Issue Date: March 10, 2009	:	REQUEST FOR
Application No. 10/913,882	:	RECONSIDERATION
Filed: August 6, 2004	:	OF PATENT TERM ADJUSTMENT
Docket No. TTP 2003-02-US-A	:	UNDER 37 CFR 1.705

This is in response to the Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance ("Communication") filed December 29, 2008.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

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 seventy-four (274) days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

This application was filed on August 6, 2004. On May 21, 2008, a request for continued examination (RCE) was filed. On September 29, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date was 274 days.[1] On December 29, 2008, applicants filed the instant Communication Regarding Patent Term Adjustment. On

[1] 427 days of Office delay was reduced by 153 days of applicant delay for a patent term adjustment of 274 days.

March 10, 2009, the application matured into U.S. Patent No. 7,501,538, with a revised patent term adjustment of 202 days.[2] However, it appears that after the patent issued the patent term adjustment was reduced in error by 72 days for the submission of the Communication filed December 29, 2008. The Communication of December 29, 2008, is not a paper for which its filing is considered a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Accordingly, the reduction of 72 days is not warranted and will be removed.

Presently, 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 accordance with the reasoning in Wyeth, they are entitled to the sum of the number of days of delay under 35 U.S.C. 154(b)(1)(B) and 35 U.S.C. 154(b)(1)(A), as these two periods do not overlap, reduced by 153 days of applicant delay.

It is noted that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentees used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 289 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), August 7, 2007, and ending on the date the RCE was filed, May 21, 2008.

Considering the correct period of adjustment under 37 CFR 1.702(b), and in accordance with patentees' arguments, it appears that patentees, in essence, maintain they are entitled to a determination of patent term adjustment of 563 days (427 days of examination delay + 289 days of Three Years Delay - zero days of overlap - 153 days of applicant delay.

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

---

[2] 427 days of Office delay was reduced by 225 days of applicant delay for a patent term adjustment of 202 days.

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

As explained in *Explanation of 37 CFR 1.703(f)*[3] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

---

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

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

Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of the filing of the application under 35 U.S.C. 111(a) on August 6, 2004, and ending on the date of filing of the request for continued examination on May 21, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE.[4] 35 U.S.C. 154(b)(1)(B)(i).

[4] As of the filing of the RCE on May 21, 2008, the application was pending three years and 289 days.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[5] 427 days[6] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 289 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

The 289 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 427 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 289 days and the 427 days is neither permitted nor warranted. 427 days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 289 days of Office delay under the three-year pendency provision.

In view of the removal of the period of reduction of 72 days, the patent term adjustment indicated on the patent should be 274 days (427 days of Office delay - 153 (92 + 61) days of applicant delay).

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized.

This application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction

---

[5] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

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

[6] A Restriction Requirement was mailed on December 7, 2006, fourteen months and 427 days after the filing of the application on August 6, 2004.

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 274 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,501,538 B2

DATED : Mar. 10, 2009

INVENTOR(S) : Mjalli 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 (202) days

Delete the phrase "by 202 days" and insert – by 274 days--

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Adnan M.M. Mjalli et al.
US Patent No.	:	7,501,538
US App. No.	:	10/913,882
Filing Date	:	August 6, 2004
For	:	ARYL AND HETEROARYL COMPOUNDS, COMPOSITIONS AND METHODS OF USE
Examiner	:	Karl J. Puttlitz
Art Unit	:	1621
Atty. Docket	:	TTP 2003-07-US-A (41305-303502)

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

TRANSMITTAL

Sir:

Transmitted herewith are copies of the following documents for filing in the above-identified application:

Transmittal; and
Letter Correcting Errors And Updating Information In Petition Filed Under 37 CFR §1.705(b) On December 29, 2008

The Commissioner is hereby authorized to charge any deficiency to Deposit Account Number 16-1435.

Respectfully submitted,

Date: May 28, 2009

By: Ben Schroeder
T. Benjamin Schroeder (Reg. No. 50,990)

KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400
(336) 607-7300

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with The United States Patent Office via EFS-Web on May 28, 2009.

Laura J. Smith
Laura J. Smith

07/13/2009 CKHLUK 00000001 161435 10913882
01 FC:1455 200.00 DA

US2000 11376922.1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100108

DATE : January 08, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7501538

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:

As stated in the petition decision mailed 7/13/09 the certificate of correction should indicate that the term of the above- identified patent is extended or adjusted by 274 days.

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Simard et al.	:	
Application No. 10/913,883	:	DECISION ON PETITION
Filed: 6 August, 2004	:	
Atty Docket No. VA/H-323198	:	

This is a decision on the petition, filed on 7 June, 2005, requesting that the above-identified application be accorded a filing date of 6 August, 2004, with Pages 13-15 of the specification as a part of the original disclosure.

The petition is granted.

On 6 August, 2004, the application was filed.

Accordingly, on 13 May, 2005, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 6 August, 2004, but that Pages 13-15 of the specification (description and claims) appeared to have been omitted.

In response, on 7 June, 2005, the present petition and a copy of Pages 13-15 were filed. Petitioners argue that Pages 13-15 of the specification was filed with the other application papers on 6 August, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of "080604" with the above-identified application number, and identifies the application by the attorney docket number, and acknowledges receipt of, *inter alia*, 27 pages of specification. Petitioners request that the application, including Pages 13-15 of the specification, be accorded a filing date of 6 August, 2004.

A review of the record reveals that no Pages 13-15 of the specification have been located among the application papers received on 6 August, 2004. However, the evidence is convincing that the application papers deposited on 6 August, 2004, included Pages 13-15 of the specification (including the abstract), which was subsequently misplaced in the Office. Therefore, the application, including Pages 13-15 of the specification, is entitled to a filing date of 6 August, 2004.

The "Notice" mailed on 13 May, 2005, is vacated.

In view of the above, the petition is granted. As the petition was necessitated by Office error, the petition fee is unnecessary and will be refunded to counsel's deposit account, No. 19-0134.

The application will be processed with the copy of Pages 13-15 of the specification supplied on 7 June, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 6 August, 2004, using the application papers filed on that date, and the copy of Pages 13, 14, and 15 of the specification supplied with the present petition.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Kazuhiko Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7639867	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,885	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1314** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
P.O. BOX 88148
ATLANTA GA 30356

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Rabenold et al.	:	DECISION ON PETITION
Application No. 10/913,886	:	TO MAKE SPECIAL
Filed: August 6, 2004	:	37 CFR1.102(D)
Attorney Docket No. 01004.1011	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 6, 2004, 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 requirements set forth above for special status because it lacks some of the references listed on the Information Disclosure Statement (IDS) submitted on August 6, 2004. Specifically, the document listed on page 2 (A45), along with the final three documents listed on page 4 (A61, A62, and A63), cannot be located. Petitioner must provide a copy of each of the references.

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 Petitions Examiner Liana Chase at 571-272-3206. 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 3693 for action in its regular turn.

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
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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
TWO RAVINIA DRIVE
SUITE 700
ATLANTA GA 30346

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Rabenold et al.	:	
Application No. 10/913,886	:	ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. 01004.1011	:	

This is a decision on the renewed petition under 37 CFR §1.102(d), filed May 23, 2007 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 3693 for expedited prosecution.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Patrick Henry Fitzgerald	: DECISION ON REQUEST FOR
Patent Number	: 7592064	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,914	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1040** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of:
Mulder, Dominicus Fredericus
Serial No. 10/913,929
Filed: Aug. 6, 2004
Docket: TS-1543 (US)
Title:
EXPANDED METAL

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Oct. 1, 2007 under 37 CFR 1.181 requesting withdrawal of the restriction requirement by constructive election restricting newly amended claims 1-4, 13, 15 and 17 in the Office Action dated Sep. 20, 2007.

The petition is **granted.**

In his Sep. 20, 2007 Office action, the examiner refused to treat the newly amended claims 1-4, 13, 15 and 17 filed on Jun. 22, 2007 because the examiner stated that those amended claims are not readable on the elected invention from an earlier restriction requirement of Sep. 14, 2006. The examiner argued that the newly amended claims 1-4, 13, 15 and 17 are drawn to a different invention (a support system for a tube bundle) distinct from the elected invention of a sheet of expanded metal) in accordance with 37 CFR 1.111. However, in the Office action of Sep. 20, 2007, the examiner failed to clearly set forth any rationale why the newly amended original rejected claims 1-4, 13, 15 and 17 are directed to an invention distinct from or independent of the invention previously claimed in the original rejected claims 1-4 and 10-17 in accordance with 37 CFR 1.145[1].

In the current petition, petitioner opines that the applicant has the right to amend his claims in response to the citation of prior art that is presented in a non-final rejection of a first office action and to have such amended claims examined by the examiner for patentability. The examiner does not have the right to refuse to examine these claims prior to the filing of a final office action.

[1] 37 CFR§ 1.145 Subsequent presentation of claims for different invention. If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § 1.143 and 1.144.

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement by constructive election mailed on Sep. 20, 2007 is hereby withdrawn. The newly amended claims 1-4, 13, 15 and 17 will be examined in the next Office action. The examiner has been directed to issue an Office action to treat the newly amended claims 1-4, 13, 15 and 17 on the merits.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3726 for the examiner's preparation of an Office action not inconsistent with this decision. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEVEN M MITCHELL
PACESETTER INC
701 EAST EVELYN AVENUE
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Robert G. Turcott	: DECISION ON REQUEST FOR
Patent Number	: 7653434	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/913,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2079

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OFFICE OF PETITIONS

In re Application of

SHABAN, Yasser R.
Application No. 10/913,965
Filed: August 6, 2004
Attorney Docket No. 22045-30

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 09, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor George H. Miley, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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 2883 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Ooi Wong	:	
Application No. 10/913967	:	ON PETITION
Filing Date: 08/06/2004	:	
Attorney Docket Number:	:	
WONG-0301	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 19, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1621 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/913,967	08/06/2004	Ooi Wong	WONG-0301

CONFIRMATION NO. 2755

POWER OF ATTORNEY NOTICE

Bo-In Lin
13445 Mandoli Drive
Los Altos Hills, CA 94022

OC000000027341923

Date Mailed: 12/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/15/2007.

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

/dlwoods/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/913,967	08/06/2004	Ooi Wong	WONG-0301

CONFIRMATION NO. 2755

POA ACCEPTANCE LETTER

41790
BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000027341941

Date Mailed: 12/18/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/15/2007.

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

/dlwoods/

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

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AUZVILLE JACKSON, JR.
8652 RIO GRANDE ROAD
RICHMOND VA 23229

In re Application of
Geoffrey Parnell et al.
Application No. 10/914,000
Filed: August 6, 2004
Attorney Docket No. 1710(AMF)

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed May 2, 2006, and treated under 37 CFR 1.181.

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

The application was held abandoned on December 14, 2005, for failure to file a timely response to the non-Final Office Action mailed September 13, 2005. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on April 14, 2006.

Petitioner asserts that a proper response in the form of an amendment was filed on October 7, 2005. Submitted as proof is a copy of the response with a certificate of mail dated October 7, 2005.

A search of the application file and the USPTO records reveal that in fact, an amendment was timely filed on October 7, 2005. It appears that the response was placed in an incorrect application file but has been properly matched with the instant application file and noted as having been timely filed.

Accordingly, the Notice of Abandonment mailed April 14, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3651 for treatment of the response filed October 7, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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AUZVILLE JACKSON, JR.
8652 RIO GRANDE ROAD
RICHMOND, VA 23229

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OFFICE OF PETITIONS

In re Application of
Geoffrey Parnell et al.
Application No. 10/914,000
Filed: August 6, 2004
Attorney Docket No. 1710(AMF)

ON PETITION

This is a decision on the petition, filed November 13, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 28, 2007 for failure to timely reply to the final Office Action mailed April 27, 2007 which set a three month shortened statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of April 27, 2007, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the Final Office action mailed on April 27, 2007, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/914,000	Applicant(s) PARNELL ET AL.	
	Examiner Mark A. Deuble	Art Unit 3651	

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

THE REPLY FILED 13 November 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: *Independent claim 12 contains a new limitation not previously considered that the picking conveyor stop be adjustable between the input end and the output end for stopping predetermined quantities of objects to be picked from the picking conveyor.* (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: _____.

Mark A. Deuble
Primary Examiner
Art Unit: 3651

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8652 RIO GRANDE ROAD
RICHMOND, VA 23229

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OFFICE OF PETITIONS

In re Application of
Geoffrey Parnell et al.
Application No. 10/914,000
Filed: August 6, 2004
Attorney Docket No. 1710(AMF)

ON PETITION

This is a decision on the request for reconsideration filed January 9, 2008 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 28, 2007 for failure to timely reply to the final Office Action mailed April 27, 2007 which set a three month shortened statutory period for reply. Prior to the mailing of the Notice of Abandonment on December 6, 2007, a petition to revive was filed on November 13, 2007. That petition was dismissed in a decision mailed November 28, 2007 because a proper reply to the Final Office Action had not been provided.

Comes now petitioner with the instant renewed petition and a Request for Continued Examination (RCE) as the response to the final rejection. Petitioner requests that the previously filed amendment be considered as the submission required under 37 CFR 1.114.

---

[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

All other requirements having been met, this application is being forwarded to Technology Center 3651 for processing of the RCE.

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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Paper No.

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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In re Patent No. 7,601,382	:	DECISION ON REQUEST
Weber et al.	:	FOR
Issue Date: October 13, 2009	:	RECONSIDERATION OF
Application No. 10/914,012	:	PATENT TERM ADJUSTMENT
Filed: August 5, 2004	:	and
Atty Docket No. S63.2B-14065	:	NOTICE OF INTENT TO ISSUE
-US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 18, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred, and eighty-three (1,183).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred, and eighty-two (1,182) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 5, 2007 and ends on March 23, 2009, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i. Thus, the over 3 year period is 596 not 597 days, and the B delay considering the 193 days of overlap is 403, not 404 days. As such, the correct patent term adjustment is 1,182, not 1,183 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred, and eighty-two (1,182)** days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

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 : 7,601,382 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Weber

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 779 days

Delete the phrase "by 779 days" and insert – by 1,182 days--

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Alexandria, Virginia 22313-1450
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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Bay-Wei W. Chang	: DECISION ON REQUEST FOR
Patent Number	: 7584426	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **945** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUN 2 2005

Ilya Zoborvsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re application of	:	**DECISION ON PETITION**
Vladimir M. Shaposhnikov, et al	:	**TO MAKE SPECIAL**
Application No. 10/914,026	:	**(APPLICANT'S AGE)**
Filed: August 9, 2004	:	
For: DEVICE FOR IMPROVING OIL AND GAS RECOVERY IN WELLS		

This is a decision on the petition submitted on April 2, 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 drivers license for Vladimir M. Shaposhnikov and Leonid Levitan indicating that both applicants are at least 65 years of age.

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

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

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

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

KJD/dcg: 5/12/05

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RICHARD L. MILLER
12 PARKSIDE DRIVE
DIX HILLS, NY 11746

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Amador Canales Jr.	:	
Application No. 10/914,030	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. CANA21A	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed November 4, 2004, to make the above-identified application special based on special examining procedure for certain new applications – accelerated examination as set forth in M.P.E.P. § 708.02, Section VIII.

The petition is **DISMISSED as Moot**.

A review of the file indicates that the above-identified application matured into Patent No. 6,944,888 on September 20, 2005. Therefore, no further action being required, this matter is being referred to Files Repository.

The $130.00 petition fee submitted is unnecessary. Petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

Denise Pothier for
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Shin Fujita	: DECISION ON REQUEST FOR
Patent Number	: 7636146	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of	:	
Landis et al.	:	
Application No. 10/914,048	:	LETTER REGARDING
Filed: August 6, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 032026-0808	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed November 13, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **467 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 10, 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 was 591 days. However, the PTA Calculations, as viewable in PAIR, indicated the patent term adjustment as 598 days. On November 13, 2008, applicants submitted the instant comment. Applicants state that the patent term adjustment of 591 indicated on the Determination of Patent Term Adjustment disagrees with applicants' own calculation of patent term

adjustment. However, applicants do not state a specific basis for their request for review of the patent term adjustment.

The application history has been reviewed and it has been determined that the number days of applicant delay is incorrect.

Pursuant to 37 CFR 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

It is undisputed that applicants filed a notice of appeal on September 30, 2008, after filing a reply in compliance with 37 CFR 1.113(c) to the final Office action on May 22, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the notice of appeal. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 131 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, May 23, 2008, and ending on the date that the notice of appeal was filed, September 30, 2008. Accordingly, a period of reduction of 131 days is being entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **467 days** (656 days (638 + 18) of Office delay - 189 days (58 + 131) of applicant delay).

As this letter was submitted to advise 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.

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.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Thursday
Date: 2/12/2009

PALM INTRANET

Time: 11:41:17

PTA Calculations for Application: 10/914048			
Application Filing Date:	08/06/2004	PTO Delay (PTO):	656
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	58
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	-131		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	02/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		131	
55	10/10/2008	MAIL NOTICE OF ALLOWANCE	18		35
54	09/03/2008	ISSUE REVISION COMPLETED			
53	09/03/2008	DOCUMENT VERIFICATION			
52	09/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	09/03/2008	NOTICE OF ALLOWABILITY			
50	09/30/2008	NOTICE OF APPEAL FILED			
49	09/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	09/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
38	08/18/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
37	08/18/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
36	08/06/2008	DATE FORWARDED TO EXAMINER			
35	05/22/2008	AMENDMENT AFTER FINAL REJECTION			
34	05/29/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	05/15/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	03/31/2008	MAIL FINAL REJECTION (PTOL - 326)			
31	03/28/2008	FINAL REJECTION			
30	12/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	12/03/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	26
28	12/03/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S)			

		RECEIVED			
27	12/13/2007	DATE FORWARDED TO EXAMINER			
26	12/03/2007	RESPONSE AFTER NON-FINAL ACTION		58	22
25	12/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/06/2007	MAIL NON-FINAL REJECTION	638		-1
21	06/28/2007	NON-FINAL REJECTION			
20	06/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	08/06/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	12/08/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	12/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	08/06/2004	REFERENCE CAPTURE ON IDS			
15.7	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/06/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
13	12/20/2004	APPLICATION RETURN FROM OIPE			
12	12/20/2004	APPLICATION RETURN TO OIPE			
11	12/20/2004	APPLICATION DISPATCHED FROM OIPE			
10	12/20/2004	APPLICATION IS NOW COMPLETE			
9	12/06/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	12/06/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	10/08/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	09/23/2004	AGENCY REFERRAL LETTER MAILED			
5	09/21/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	09/20/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/20/2004	CASE CLASSIFIED BY OIPE			
2	08/27/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/06/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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APR 26 2010
OFFICE OF PETITIONS

In re Patent No. 7,507,820	:	DECISION ON REQUEST FOR
Landis et al.	:	RECONSIDERATION OF
Issue Date: March 24, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/914,048	:	NOTICE OF INTENT TO ISSUE
Filed: August 26, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 032026-0808	:	

This is a decision on the petition filed on May 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-six (1176) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand thirty-four (1034) days**.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4)

provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the over three year period is 596 days. However, patentee failed to account for the filing of the notice of appeal on September 30, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 11 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, September 30, 2008, and ending on the date of the mailing of the notice of allowance, October 10, 2008. Thus, the B delay is 585 days (596 - 11).

Further, A delay is 656 (638 + 18) days, not 638 days as asserted by patentee. However, the A delay and B delay overlap by 18 days, beginning on September 23, 2008 and ending on October 10, 2008. Lastly, applicant delay is 189 days (58 + 131), not 58 days as stated by patentee.

Accordingly, the patent term adjustment is 1034 days (656 days of A delay + 585 days of B delay - 18 days of overlap - 189 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand thirty-four (1034) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,507,820 B2

DATED: Mar. 24, 2009 **DRAFT**

INVENTOR(S): Landis 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 467 days

Delete the phrase "by 467 days" and insert – by 1034 days--

Day : Thursday
Date: 4/22/2010

PALM INTRANET

Time: 22:23:23

PTA Calculations for Application: 10/914048			
Application Filing Date:	08/06/2004	PTO Delay (PTO):	656
Issue Date of Patent:	03/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	58
Post-Issue Petitions:	0	Total PTA (days):	1034
PTO Delay Adjustment:	436		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	04/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	567		
67.5	03/04/2009	PTA 36 MONTHS			
67	03/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
66	02/23/2009	EXPORT TO FINAL DATA CAPTURE			
65	02/20/2009	DISPATCH TO FDC			
64	02/13/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
63	02/13/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
63	02/13/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
62	02/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		131	
62	02/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
61	01/09/2009	FINISHED INITIAL DATA CAPTURE			
60	12/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	12/23/2008	ISSUE FEE PAYMENT VERIFIED			
58	12/23/2008	ISSUE FEE PAYMENT RECEIVED			
57	11/13/2008	PETITION ENTERED			
56	10/06/2008	EXPORT TO INITIAL DATA CAPTURE			
55	10/10/2008	MAIL NOTICE OF ALLOWANCE	18		35
54	09/03/2008	ISSUE REVISION COMPLETED			
53	09/03/2008	DOCUMENT VERIFICATION			
52	09/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
51	09/03/2008	NOTICE OF ALLOWABILITY			
50	09/30/2008	NOTICE OF APPEAL FILED			
49	09/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
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32	03/31/2008	MAIL FINAL REJECTION (PTOL - 326)			
31	03/28/2008	FINAL REJECTION			
30	12/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	12/03/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	26
28	12/03/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
27	12/13/2007	DATE FORWARDED TO EXAMINER			
26	12/03/2007	RESPONSE AFTER NON-FINAL ACTION		58	22
25	12/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	12/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/06/2007	MAIL NON-FINAL REJECTION	638		-1
21	06/28/2007	NON-FINAL REJECTION			
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16	08/06/2004	REFERENCE CAPTURE ON IDS			
15.7	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

15	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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10	12/20/2004	APPLICATION IS NOW COMPLETE			
9	12/06/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
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7	10/08/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	09/23/2004	AGENCY REFERRAL LETTER MAILED			
5	09/21/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	09/20/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/20/2004	CASE CLASSIFIED BY OIPE			
2	08/27/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/06/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1 0 JAN 2008

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

In re Application of	:	
YEUNG	:	
Application No.: 10/914,059	:	DECISION
Attorney Docket No.: None	:	
For: SUTURE ANCHOR AND APPROXIMATING	:	
DEVICE	:	

This decision is in response to applicant's "PETITION UNDER RULE 182 (Petition to Treat Application As A National Stage)" filed in the United States Patent and Trademark Office (USPTO) 18 September 2007. The petition fee has been paid.

BACKGROUND

On 24 December 2002, applicants filed international application PCT/US02/41399, which designated the United States and claimed a priority date of 14 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 September 2004.

On 05 August 2004, applicant filed submission for entry in to the national stage in the United States which was accompanied by, *inter alia*, a specification, claims, abstract, drawings, and a declaration of the inventor.

On 26 June 2007, an Office action was mailed setting forth a restriction requirement and requiring an election of invention/claims. The Office action set a one month extendable period for reply.

On 18 September 2007, applicant submitted the instant "PETITION UNDER RULE 182 (Petition to Treat Application As A National Stage)".

DISCUSSION

Conflicting Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the

National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

See also 37 CFR 1.495(g).

The transmittal letter filed on 05 August 2004 is a "UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications under 37 CFR 1.53(b))." The specification submitted 05 August 2004 reads that the "application is a National Stage Application of PCT/US02/41399". Also, the declaration of inventors executes international application PCT/US02/41399. The specification and the declaration contradict the request in the transmittal letter to file under 37 CFR 1.53. The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 111(a). Since applicant gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 05 August 2004 were properly accepted as a submission under 35 U.S.C. 111(a).

Petition Under 37 CFR 1.182

The petition fee has been paid. U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. Here, a showing of sufficient cause has not been made.

Election/Restriction Requirement

The time period for reply continues to run from the Office action mailed 26 June 2007. A petition under 37 CFR 1.182 is not a proper reply. A proper reply would include an election of invention/claims made with or without traverse. No election of invention/claims has been made. The time period for response including extensions of time ended at midnight on December 26, 2007. Accordingly, the application is abandoned.

Continuation Application

Were the application not abandoned, applicant would have been entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/914,059) and the international application (PCT/US02/41399) designating the United States were copending on 05 August 2004. However, this reference would have to have been submitted within the later of four months from the actual filing date of this application or sixteen months from the filing date of the international

application. 37 CFR 1.78(a)(2)(ii). Applicant may have filed a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the international application.

It is also noted that were the application not abandoned, in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

For the reasons set forth above, the application is **ABANDONED**.

The application is being forwarded to the Technology Center for preparation and mailing of a NOTICE OF ABANDONMENT.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

1 7 JAN 2008

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

In re Application of	:	SUPPLEMENTAL
YEUNG	:	
Application No.: 10/914,059	:	DECISION
Attorney Docket No.: None	:	
For: SUTURE ANCHOR AND APPROXIMATING	:	
DEVICE	:	

This decision is supplemental to the decision mailed 10 January 2008.

A portion of that decision indicated that the instant application was abandoned for failure to timely reply to the Office action mailed 26 June 2007 with an election of invention/claims. However, further review of the application shows that an election of invention/claims was made in the submission filed 18 September 2007. Accordingly, that portion of the decision mailed 10 January 2008 indicating that the application was abandoned is hereby VACATED.

The following is for applicant's information.

Regarding the information concerning a continuation application mentioned in the previous decision, applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/914,059) and the international application (PCT/US02/41399) designating the United States were copending on 05 August 2004. However, this reference must be submitted within the later of four months from the actual filing date of this application or sixteen months from the filing date of the international application. 37 CFR 1.78(a)(2)(ii). Applicant may file a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the international application.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

The application is being forwarded to the Technology Center for further action, as appropriate.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

0 1 OCT 2008

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

In re Application of	:	
YEUNG	:	
Application No.: 10/914,059	:	DECISION ON PETITIONS
Attorney Docket No.: None	:	UNDER 37 CFR 1.78(a)(3) AND
For: SUTURE ANCHOR AND	:	UNDER 37 CFR 1.78(a)(6)
APPROXIMATING DEVICE	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 23 May 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed international application and provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR

1.78(a)(2)(i) and 1.78(a)(5)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), must be submitted.

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

By mail: Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (571) 272-3301
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0 2 JAN 2009

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

In re Application of	:	
YEUNG	:	
Application No.: 10/914,059	:	DECISION ON PETITIONS
Attorney Docket No.: None	:	UNDER 37 CFR 1.78(a)(3) AND
For: SUTURE ANCHOR AND	:	UNDER 37 CFR 1.78(a)(6)
APPROXIMATING DEVICE	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 16 October 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR §§

1.78(a)(2)(iii) and 1.78(a)(5)(iii); and (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted. With regard to item (3), petitioner states "[t]he delay in filing of the priority information was unintentional." This statement has been construed to mean 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." If this is incorrect, petitioner **must immediately notify the Office of PCT Legal Administration**. As so construed, the petition satisfies item (3). Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Daniel Stemmer at (571)-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3773 for appropriate action on the amendment submitted 16 October 2008, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed

international application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/914,059	08/05/2004	3773	1708		81	6

CONFIRMATION NO. 3783

CORRECTED FILING RECEIPT

23429
GREGORY SMITH & ASSOCIATES
3900 NEWPARK MALL ROAD, 3RD FLOOR
NEWARK, CA 94560

OC000000033881635

Date Mailed: 01/02/2009

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)

Jeffrey Eric Yeung, San Jose, CA;
Teresa T. Yeung, San Jose, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/41399 12/24/2002
which claims benefit of 60/364,947 03/14/2002

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 **US 10/914,059**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Suture anchor and approximating device

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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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

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OFFICE OF PETITIONS

In re Application of
HARRIS
Application No. 10/914,067
Filed: August 9, 2004
Attorney Docket No. BGN1478

DECISION
ON PETITION

This is a decision on a petition filed March 19, 2007 under 37 CFR 1.137(b), which is being treated as a petition under 37 CFR 1.181[1] (no fee) for withdrawal of the holding of abandonment of the above-identified application.

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

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 8, 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. A Notice of Abandonment was mailed March 13, 2007, indicating that no reply to the August 8, 2006 Office action had been received.

Under 37 CFR 1.181 to withdraw the holding of abandonment, the petitioner must provide evidence to demonstrate that a reply was timely mailed or filed. As set forth in MPEP 711.03(c)(I)(B), proper evidence may include: (1) an appropriate petition under 37 CFR 1.10 to show the paper was mailed using the proper Express Mail procedures; (2) a stamped postcard receipt itemizing the reply as set forth in MPEP 503; or (3) a certificate of mailing or transmission under 37 CFR 1.8(b). Petitioner has not provided adequate evidence that any of the above procedures were used.

Upon review, the amendment allegedly filed on November 28, 2006 does not include the proper Express Mail label evidence as required under 37 CFR 1.10 or a certificate of mailing or transmission as set forth in 37 CFR 1.8(b). Petitioner has also not provided a stamped postcard

[1] Petitioner captions the petition under 37 CFR 1.137(b), but the substance of the petition request the holding of abandonment be withdrawn in the above-identified application, which is properly petitioned under 37 CFR 1.181. Additionally, this petition was not accompanied by the required fee for revival under 37 CFR 1.137(b)(2). See Krahn v. Commissioner, 15 USPQ2d 1823, 1825, (E.D. Va. 1990).

receipt itemizing the correspondence filed on November 28, 2006. The only provided evidence supporting the timely filing of the amendment is an Auto-Reply Facsimile Transmission or a copy of the sending unit's report from the Office dated November 28, 2006. Unfortunately, the report appears to bear a different serial number than the instant application.[2] Petitioner supports this assumption in the petition when stating, "applicant's agent did err in including an incorrect serial number on the response[.]" Moreover, the report does not demonstrate that the procedures under 37 CFR 1.8 for transmitting an amendment and using the certificate of transmission were followed in the above-identified application. See Krahn, *infra*. In total, the supplied evidence is unpersuasive in demonstrating that a reply was timely mailed or filed in the present application.

As an alternative, petitioner may consider filing a petition under 1.59(b) with the requisite $200 fee. MPEP 724.05(III) states:

> 37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged rather than transferred to the correct application file . . . The grant of such a petition will be governed by the factors enumerated in paragraph II of this section in regard to the unintentional submission of information. Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g., application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

Such a petition should demonstrate that the November 28, 2006 amendment is present in an incorrect application (e.g., U.S. Application No. 11/193,769) and that the papers, as filed, included enough identifying information in the heading of the correspondence that the Office can determine the correct application for which the papers were intended.

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

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions

[2] The Auto-Reply Facsimile Transmission appears to have been altered in the petition by crossing out the incorrect application number and writing in the correct number by hand.

Randolph Building
401 Dulany Street
Alexandria, VA 22314.

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

Brian Hearn
Petitions Examiner
Office of Petitions

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SEAN KAUFHOLD
P. O. BOX 89626
SIOUX FALLS SD 57109

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OFFICE OF PETITIONS

In re Application of :
HARRIS :
Application No. 10/914,067 :
Filed: August 9, 2004 :
Attorney Docket No. BGN1478 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 8, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 9, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed August 8, 2006 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2838 for consideration of the reply filed March 19, 2007.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory E. Montone
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Nobuo KAWAMURA
Application No. 10/914,095
Filed: August 10, 2004
For: METHOD AND SYSTEM FOR DATA PROCESSING WITH DATA BACKUP

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on September 13, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of September 13, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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HAN-YI LEE
BAYSHORE PATENT GROUP, LLC
520 CHANTECLER DRIVE
FREMONT, CA 94539

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SEP 1 6 2004

OFFICE OF PETITIONS

In re Application of
Yen-Liang Kuan
Application No. 10/914,100
Filed: August 9, 2004
Attorney Docket No.: USP30110

ON PETITION

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 7, 2004.

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.33d 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**. However, petitioner is ultimately responsible for ensuring that the correct fee is paid.

Small entity status will no longer apply.

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 Office of Initial Patent Examination for pre-examination processing.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Brake Hughes PLC
C/O Intellevate
P.O. Box 52050
Minneapolis MN 55402

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of
Lee et al.
Application No. 10/914,105
Filed: 08-09-2004
Attorney Docket No. BU1467C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2007, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 4, 2006, which set a shortened statutory period for reply of three (3) months. Petitioner did not obtain any extensions of time for response pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 5, 2006.

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

This application is being referred to Technology Center AU 2183 for review of the amendment.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Brake Hughes PLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Sherman Lee	: DECISION ON REQUEST FOR
Patent Number	: 7640418	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,105	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **283** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Splawski et al.	:	
Application No. 10/914,133	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 2323-168	:	

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GARRETT & DUNNER LLP
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WASHINGTON, DC 20001-4413

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of
Mary Jackson et al
Application No. 10/914,165
Filed: August 10, 2004
Attorney Docket No. 03495.0182-02

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application Nos. 60/198,229, filed October 28, 1998; 60/113,675, filed November 4, 1998; and 60/111,813, filed December 11, 1998.[1]

The petition is **GRANTED**.

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

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

The present pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

---

[1] Although the petition is solely directed to a claim for priority to provisional Application No. 60/113,675, the petition is being treated as requesting acceptance of a late claim for priority to provisional Application Nos. 60/198,229 and 60/111,813 also. Specifically, while the claim for priority was present on filing to the provisional applications, the Office did not recognize the claim for priority since the relationship of each application to the other was not clearly stated; i.e., the claim indicated that the present application claimed benefit of the provisional applications, rather than indicating that the actual claim stemmed from intermediate Application No. 09/429,370. Therefore, as the claim read, the present application was filed more than one year from the filing date of the provisional applications and, for this reason, was not recognized.

37 CFR 1.78(a)(6) requires 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. Since the statement contained in the petition varies from the language required by 37 CFR 1.78(a)(6), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct interpretation of the statement.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) an adequate statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for this applications to be entitled to the benefit of the prior-filed applications, 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 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 provisional 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.

The application is being forwarded to Technology Center AU 1645 for such further action as the nature of the case requires, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to above-noted, prior-filed provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

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AUG 16 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rod Kent-Fawkes :
Application No. 10/914,183 :
Filed: August 10, 2004 :
Title of Invention.: Plastic Beverage Bottle Holder

This is a decision on the petition filed May 16, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 6, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned January 9, 2006. Accordingly, the Notice of Abandonment was mailed May 3, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a timely response to the non-Final Office Action and while petitioner argues non-receipt of the office action, petitioner has not proven non-receipt or filed a response to the office action.

Petitioner must submit a proper reply to the final Office action mailed on October 6, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay**.

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

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P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Rod Kent-Fawkes :
Application No. 10/914,183 : ON PETITION
Filed: August 10, 2004 :
Title of Invention.: Plastic Beverage Bottle Holder

This is a decision on the request for reconsideration filed September 25, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 6, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned January 9, 2006. Accordingly, the Notice of Abandonment was mailed May 3, 2006. A petition filed May 16, 2006 was dismissed in a decision mailed August 16, 2006 because while petitioner argued non-receipt of the office action, petitioner had not proven non-receipt or filed a response to the office action.

Comes now petitioner with an amendment in response to the non-Final Office Action mailed October 6, 2005.

This matter is being referred to Technology Center 3632 for appropriate treatment on the amendment filed September 25, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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ARBORETUM PLAZA ONE, SUITE 500
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of	:
Terry R. Turner et al	:
Application No. 10/914,248	: DECISION GRANTING PETITION
Filed: August 9, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. IFRE005US2	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 5, 2005, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2813.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
HULSEY INTELLECTUAL PROPERTY ATTORNEYS
1250 S. CAPITAL OF TEXAS HWY.
BUILDING 3, SUITE 610
AUSTIN, TEXAS 78746

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Patent No: 7,104,826 :
Issue Date: September 12, 2006 :
Application No. 10/914,280 : ON PETITION
Filed: August 10, 2004 :
Attorney Dck't. No. 2048.0030002 :

This application is before this office due to the petitions filed August 24, and 28, 2006, requesting *inter alia* under 37 CFR 1.183 waiver of the provisions of 37 CFR 1.48(a)(2) which require a statement from the inventor being deleted, and under 37 CFR 1.48, amendment of the named inventive entity.

The petitions are dismissed. The delay in treating the petitions is regretted.

Unfortunately , the above-captioned patent issued before the various petitions were brought before an appropriate deciding official in the Office of Petitions. While the USPTO is willing to entertain petitions under 37 CFR 1.183 for waiver of various provisions of 37 CFR 1.48 to amend the inventive entity of a pending application, the USPTO does not have such discretionary authority after that application has issued as a patent. This is due to the differing provisions of the statutes which control, respectively, amendment of the inventive entity of a pending application (§ 116), and an issued patent (§ 256), as explained in MPEP 1481.02:

> The statutory basis for correction of inventorship in a patent under 37 CFR 1.324 is 35 U.S.C. 256. It is important to recognize that 35 U.S.C. 256 is stricter than 35 U.S.C. 116, the statutory basis for corrections of inventorship in applications under 37 CFR 1.48. 35 U.S.C. 256 requires "on application of all the parties and assignees," while 35 U.S.C. 116 does not have the same requirement. Under 35 U.S.C. 116 and 37 CFR 1.48, waiver requests under 37 CFR 1.183 may be submitted (see, e.g., MPEP § 201.03, under the heading "Statement of Lack of Deceptive Intention"). This is not possible under 35 U.S.C. 256 and 37 CFR 1.324. In correction of inventorship in a nonprovisional application under 37 CFR 1.48(a), the requirement for a statement by each originally named inventor may be waived pursuant to 37 CFR 1.183; however, correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties, i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. 256) and thus the requirement cannot be waived

Nevertheless, petitioner may submit the same issue before the USPTO in a reissue application, particularly as the non cooperating inventor has assigned his rights to the assignee of the entire interest. See MPEP §§ 1410.01; 1412.04.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Dimitri Kanevsky, et al.	:	
Application No. 10/914,295	:	DECISION ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. YOR920040250US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 15, 2008.

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

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business on the reply received February 27, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/21/2010

Applicant	: Chul-min Kim	: DECISION ON REQUEST FOR
Patent Number	: 7668441	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Hisao Nakashima	: DECISION ON REQUEST FOR
Patent Number	: 7596315	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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: 05/18/2010

Applicant : Hisao Nakashima
Patent Number : 7596315
Issue Date : 09/29/2009
Application No : 10/914,313
Filed : 08/10/2004

: 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 **1153** 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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47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

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DEC 11 2007

OFFICE OF PETITIONS

In re Application of	:
Houser, et al.	: DECISION
Application No.: 10/914,321	:
Filed: August 9, 2004	:
Docket No.: 03-0049 (8470-000039)	:

This decision is in response to the "PETITION BY JOINT INVENTOR(S) FILING ON BEHALF OF OTHER JOINT INVENTOR(S) WHO REFUSE(S) TO JOIN IN APPLICATION OR CANNOT BE REACHED (37 CFR § 1.47(a))," as well as the request for correction of inventorship under 37 CFR 1.48(a), filed November 7, 2007. The petition under 37 CFR 1.47(a) is being properly treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) and (a)(3). The required petition fee of $400.00 has been charged to petitioners' deposit account as authorized.

The provisions of 37 CFR 1.183 provide that "[i]n 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 Commissioner or the Commissioner'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)."

In accordance with 37 CFR 1.48(a): "[i]f the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires: (1) A request to correct the inventorship that sets forth the desired inventorship change; (2) A statement from each person being added as an inventor and from each person being

deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47; (4) The processing fee set forth in § 1.17(i); and (5)If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter)."

Petitioners seek to correct the inventive entity in the instant application by submitting a request under 37 CFR 1.48(a). Petitioners are required under 37 CFR 1.48(a)(2) to submit a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Petitioners must, further, submit an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47.

Petitioners are unable to comply with the requirements of 37 CFR 1.48(a)(2) and (a)(3) because Mr. Bedard has refused to sign both the statement and the supplemental declaration.

The petition fails because the required declaration fails to set forth the citizenship of Mr. Bedard in accordance with 37 CFR 1.63(a)(3).

Accordingly, the petition is hereby **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183," and should only address the deficiencies noted herein. The reply under 37 CFR 1.183 may include the statement under 37 CFR 1.48(a)(2) of non-deceptive intent by the inventor being added and the executed oath or declaration under 37 CFR 1.63. Any extensions of time will be governed by 37 CFR 1.136(a).

Any renewed petition must be accompanied by a proper oath or declaration in compliance with 37 CFR 1.63 and 1.67.

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

By mail: Mail Stop Petition
Commissioner for Patents

P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:
Houser, et al.	: DECISION
Application No.: 10/914,321	:
Filed: August 9, 2004	:
Docket No.: 03-0049 (8470-000039)	:

This decision is in response to renewed petition filed December 11, 2007 and is being treated under the provisions of 37 CFR 1.48 as a petition to correct inventorship as well as under 37 CFR 1.183 as a request for waiver of the provisions of 37 CFR 1.48(a)(2) and (a)(3).

The above-identified application was filed August 9, 2004 and named Mr. Houser and Mr. Knopp as joint inventors. Petitioners herein seek to correct the inventive entity of this application by adding Gerard Bedard as a joint inventor.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n 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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a request under 37 CFR 1.48(a). Petitioners are required under 37 CFR 1.48(a)(2) to submit a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Petitioners are unable to comply with this requirement because Mr. Bedard, the inventor being added, has refused to sign a statement of non-deceptive intent in accordance with 37

CFR 1.48(a)(2) or execute a declaration in accordance with 37 CFR 1.63 and 1.48(a)(3).

Petitioners have established that they are unable to procure a statement of non-deceptive intent or an executed oath or declaration from Mr. Bedard, the person being added as an inventor.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.48

In view of the evidence presented, it has been found that this nonprovisional application, as filed, 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, adding Mr. Bedard as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby **GRANTED**.

Enclosed please find a corrected filing receipt.

This application is being forwarded to Technology Center Group Art Unit 1792 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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
10/914,321	08/09/2004	1792	914	03-0049 (8470-000039)	28	3

CONFIRMATION NO. 4950

CORRECTED FILING RECEIPT

29293
FREUDENBERG-NOK GENERAL PARTNERSHIP
LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH, MI 48170-2455

OC000000028938484

Date Mailed: 03/19/2008

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

Applicant(s)

Marvin Joseph Houser, South Elgin, IL;
Joseph A. Knopp, Batavia, IL;
GERARD BEDARD, Residence Not Provided;

Power of Attorney: The patent practitioners associated with Customer Number 29293

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/914,321**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-COMPONENT ISOLATION DAMPING SYSTEM FOR A LAUNDRY WASHING MACHINE

Preliminary Class

068

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

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OFFICE OF PETITIONS

In re Application of	:
Houser, et al.	: DECISION
Application No.: 10/914,321	:
Filed: August 9, 2004	:
Docket No.: 03-0049 (8470-	:
000039)	:

This decision is in response to renewed petition filed December 11, 2007 and is being treated under the provisions of 37 CFR 1.48 as a petition to correct inventorship as well as under 37 CFR 1.183 as a request for waiver of the provisions of 37 CFR 1.48(a)(2) and (a)(3).

The above-identified application was filed August 9, 2004 and named Mr. Houser and Mr. Knopp as joint inventors. Petitioners herein seek to correct the inventive entity of this application by adding Gerard Bedard as a joint inventor.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n 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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a request under 37 CFR 1.48(a). Petitioners are required under 37 CFR 1.48(a)(2) to submit a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Petitioners are unable to comply with this requirement because Mr. Bedard, the inventor being added, has refused to sign a statement of non-deceptive intent in accordance with 37

CFR 1.48(a)(2) or execute a declaration in accordance with 37 CFR 1.63 and 1.48(a)(3).

Petitioners have established that they are unable to procure a statement of non-deceptive intent or an executed oath or declaration from Mr. Bedard, the person being added as an inventor.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(2) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.48

In view of the evidence presented, it has been found that this nonprovisional application, as filed, 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, adding Mr. Bedard as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby **GRANTED**.

Enclosed please find a corrected filing receipt.

This application is being forwarded to Technology Center Group Art Unit 1792 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/30/2010

Applicant	: Michael Joseph Washburn	: DECISION ON REQUEST FOR
Patent Number	: 7632229	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **708** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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JAN 2 4 2007

OFFICE OF PETITIONS

In re Application of
Romney R. Katti
Application No. 10/914,327
Filed: August 9, 2004
Attorney Docket No. H0004882-1600 01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 19, 2006.

The petition is **granted**.

The application became abandoned for failure to pay the issue fee on or before August 15, 2006. A Notice of Abandonment was mailed on September 20, 2006. On October 19, 2006, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Nicole E. Lammers 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 in accordance with 37 CFR 1.34(a). A courtesy copy of this decision is being mailed to petitioner; but, if Ms. Lammers 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay[1].

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone 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

cc: NICOLE E. LAMMERS
MCDONNELL BOEHNEN HUEBERT& BERGHOFF LLP
300 SOUTH WAKER DRIVE
CHICAGO, IL 60606-6709

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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WATTS, HOFFMANN CO., L.P.A.
STE. 1750
1100 SUPERIOR AVENUE
CLEVELAND OH 44114

COPY MAILED

OCT 1 9 2004

OFFICE OF PETITIONS
NOTICE

In re Application of :
Michel Pharand et al :
Application No. 10/914,343 :
Filed: August 9, 2004 :
Attorney Docket No. 16-553 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 3652

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

COPY MAILED
AUG 20 2008

In re Application of :
Luther BLACKLOCK :
Application No. 10/914,348 : DECISION ON PETITION
Filed: August 09, 2004 :
Attorney Docket No. **DEH-0006-D** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 16, 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 August 17, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

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

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In

re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b).
Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 17, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Cantor Colburn, LLP was counsel of record at the time of abandonment, the attorneys should explain why this application became abandoned while it was under their control and what efforts the attorneys made to further reply of itself and with whom this matter was discussed. Was the Notice of Abandonment received in the application file? When did the attorneys become aware of the abandonment of this application?

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), involved with this application at the time of abandonment. Statements are required from any and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

Any renewed petition may be addressed as follows:

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

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

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

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

To expedite consideration, regarding the filing of the renewed petition under 37 CFR 1.137(b), or for telephone inquiries concerning this decision, petitioner may wish to contact Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DANIEL DREXTER**
CANTOR COLBURN LLP
1800 DIAGONAL RD. STE. 510
ALEXANDRIA, VA 22314

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PTO/SB/64 (11-07)
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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.

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

Docket Number (Optional) DEH-0006-D

First named Inventor: LUTHER BLACKLOCK

Application No.: 10/914,348 Art Unit: 3711

Filed: 09 AUGUST 2004 Examiner: CHIU, R. W.

Title: GOLF TRAINING APPARATUS

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 (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 REPLY WITH AMENDMENT (identify type of reply):
☑ has been filed previously on 16 NOVEMBER 2005.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____
☐ is enclosed herewith.

11/19/2007 NNGUYEN1 00000024 061130 10914348
01 FC:2453 770.00 DA

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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PTO/SB/64 (11-07)
Approved for use through 11/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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	16 NOV. 2007 Date
Daniel Drexler Typed or printed name	47535 Registration Number, if applicable
Cantor Colburn LLP Address	703-236-4500 Telephone Number
1800 Diagonal Rd., Ste. 510, Alexandria, VA 22314 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

16 Nov. 2007
Date

Signature

Daniel Drexler
Typed or printed name of person signing certificate

PAGE 2/12 * RCVD AT 11/16/2007 12:28:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/9 * DNIS:2738300 * CSID:703 236 4501 * DURATION (mm-ss):04-00

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10914348 Total Records Found: 2

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
11/19/2007	00000031	1	2453	$770.00	11/16/2007	DA 061130
08/11/2004	00000107	1	2001	$385.00	08/09/2004	CK

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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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Luther BLACKLOCK	:	
Application No. 10/914,348	:	DECISION ON PETITION
Filed: August 09, 2004	:	
Attorney Docket No. **DEH-0006-D**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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, May 16, 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 August 17, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 16, 2005 is accepted as having been intentionally delayed.

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

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

This application is being referred to Technology Center AU 3711 for appropriate action on the amendment filed November 16, 2007.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DANIEL DREXTER**
CANTOR COLBURN LLP
1800 DIAGONAL RD. STE. 510
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 30 2007

OFFICE OF PETITIONS

EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS ST., STE. 2850
CHICAGO IL 60606

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/914,357	:	DECISION GRANTING PETITION
Filed: August 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0139.02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 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 October 2, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMART & BIGGAR
438 University Avenue
Suite 1500, Box 111
Toronto, Ontario
Canada M5G 2K8

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AUG 0 2 2007

OFFICE OF PETITIONS

Applicant: Francois Blouin
Appl. No.: 10/914,365
Filing Date: August 10, 2004
Title: MODIFIED BACKOFF MECHANISM FOR WIRELESS NETWORKS
Attorney Docket No.: 92074-114
Pub. No.: US 2006/0034208 A1
Pub. Date: February 16, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 30, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 4 of the publication as the paragraph "[o]ther modifications will be apparent to those skilled in the art and, therefore, the invention is defined in the claims" was improperly omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in omitting the sentence "[o]ther modifications will be apparent to those skilled in the art and, therefore, the invention is defined in the claims" on page 4 of the publication may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error is not a material Office error because the omission of the sentence on page 4 of the publication does not affect the understanding of the publication. The application is clearly understandable to one of ordinary

[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).

skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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

Mark 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

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Paul J. Degroot	: DECISION ON REQUEST FOR
Patent Number	: 7650188	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,369	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Charles C. Logan II
8282 University Ave.
LA Mesa CA 91941

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OFFICE OF PETITIONS

In re Application of	:	
John Rogozienski	:	
Application No.: 10/914371	:	DECISION ON
Filing or 371(c) Date: 08/10/2004	:	PETITION
Title of Invention:	:	
MOTORCYCLE FOOT PEG	:	
"CRADLE MOUNT BRACKET"	:	

This is a decision in response to the correspondence entitled "Response to Notice of Abandonment, Petition to be Revived," filed April 10, 2007. The correspondence is properly treated as a petition under 37 CFR 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed November 28, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed March 28, 2006.

Applicant files the instant petition and asserts that a timely reply to the Notice, to wit: Part B of the Issue Fee Transmittal Form, was filed via facsimile on January 22, 2007. In support of this assertion, Applicant provides a copy of the reply, which includes a Certificate of Mailing dated January 22, 2007. The Certificate of Mailing is executed by petitioner herein.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on January 22, 2007.

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

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

Derek Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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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: 06/14/2010

Applicant	: Athula Ekanayake	: DECISION ON REQUEST FOR
Patent Number	: 7658961	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,389	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **930** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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APR 20 2010

OFFICE OF PETITIONS

In re Application of :
Kormman, et al. :
Application No. 10/914,396 :
Filed: August 9, 2004 :
Attorney Docket No. 24299-518CIP :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed December 11, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants also set forth some argument as to the adjustment to the patent term on the basis that the Office will take in excess of three years to issue this patent, which is properly treated under 37 CFR 1.705(b).

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, 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 —

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(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 July 22, 2009.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.[2]

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred and nine (109) days**. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 17, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 0 days. On December 11, 2009, applicants submitted the instant comment. Applicants disclose that the reduction to the patent term adjustment for applicant delay should be increased by 21 days because applicants filed an Information Disclosure Statement (IDS) 21 days after a Request for Continued Examination was filed on July 22, 2009.

A review of the application history reveals that an Information Disclosure Statement (IDS) was filed on August 12, 2009, 21 days after a Request for Continued Examination was filed on July 22, 2009. 37 CFR 1.704(c)(8) provides that:

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[2] It is noted that this "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" was submitted, in part, as an advisement to the Office of an error in the calculation of the Patent Term Adjustment. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.
It is noted that the Office is not assessing the $200.00 application fee under 37 1.18(e) for the portion of the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" that is akin to a candor letter, but must assess the $200.00 fee for the treatment of the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" under 37 CFR 1.705(b).

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

It is undisputed that the Information Disclosure Statement filed August 12, 2009, was filed 21 days after the Request for Continued Examination was filed on July 22, 2009. The record does not support a conclusion that the Examiner expressly requested the filing of the IDS. Further review of the Information Disclosure Statement filed August 12, 2009, reveals that it did not include the proper statement under § 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(8), a period of reduction of twenty-one (21) days will be entered.

Further review of the application file reveals that applicants should not have been assessed 273 days of reduction to the patent term adjustment for the filing of the Request for Continued Examination on July 22, 2009. Rather, applicant should have been assessed 79 days of reduction to the patent term adjustment for the filing of the Notice of Appeal on January 9, 2009. A final Office Action was mailed on July 22, 2008. On January 9, 2009, applicants filed a Notice of Appeal and paid the appropriate fee. The Notice of Appeal is a reply within the meaning of 37 CFR 1.704(b) and should be used to calculate the reduction to the patent term adjustment pursuant to 37 CFR 1.704(b), not the latter filed Request for Continued Examination. Accordingly, in this instance, the period of reduction to the patent term adjustment pursuant to 37 CFR 1.704(b) is 79 days and is calculated from the day after the date that is three months after final Office action was mailed October 23, 2008, until the Notice of Appeal was filed, January 9, 2009. Accordingly, the period of adjustment as set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 79 days, not 273 days. The period of 273 days will be removed and a period of 79 days entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is one hundred and nine (109) days.

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.

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 regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 15:59:57

PTA Calculations for Application: 10/914396			
Application Filing Date:	08/09/2004	PTO Delay (PTO):	413
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	477
Post-Issue Petitions:	0	Total PTA (days):	109
PTO Delay Adjustment:	173		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
90	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	64		
89	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	109		
80	09/17/2009	MAIL NOTICE OF ALLOWANCE			
79	09/11/2009	ISSUE REVISION COMPLETED			
78	09/11/2009	DOCUMENT VERIFICATION			
77	09/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	09/10/2009	EXAMINER'S AMENDMENT COMMUNICATION			
75	09/10/2009	NOTICE OF ALLOWABILITY			
74	08/12/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
69	08/12/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	07/28/2009	DATE FORWARDED TO EXAMINER			
67	07/22/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
66	07/28/2009	DATE FORWARDED TO EXAMINER			
65	07/22/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)		273	50
64	07/28/2009	DISPOSAL FOR A RCE / CPA / R129			
63	07/22/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	07/22/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
61	01/21/2009	MAIL ADVISORY ACTION (PTOL - 303)			
60	01/21/2009	ADVISORY ACTION (PTOL-303)			
57	01/09/2008	NOTICE OF APPEAL FILED			
56	01/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

55	01/09/2009	DATE FORWARDED TO EXAMINER			
54	12/22/2008	AMENDMENT AFTER FINAL REJECTION			
53	12/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	07/02/2008	REFERENCE CAPTURE ON IDS			
51	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		112	44
50	07/22/2008	MAIL FINAL REJECTION (PTOL - 326)	10		44
49	07/21/2008	FINAL REJECTION			
48	07/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	05/19/2008	DATE FORWARDED TO EXAMINER			
44	03/12/2008	RESPONSE AFTER NON-FINAL ACTION			
43	03/12/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
42	12/12/2007	MAIL NON-FINAL REJECTION			
41	12/08/2007	NON-FINAL REJECTION			
39	10/22/2007	DATE FORWARDED TO EXAMINER			
38	10/17/2007	RESPONSE AFTER NON-FINAL ACTION		92	33
37	10/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	10/17/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
35	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	09/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	04/17/2007	MAIL NON-FINAL REJECTION			
32	04/14/2007	NON-FINAL REJECTION			
31	02/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	12/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	02/15/2007	DATE FORWARDED TO EXAMINER			
28	02/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
27	02/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	12/08/2006	REFERENCE CAPTURE ON IDS			
25.7	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

25	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/16/2006	MAIL RESTRICTION REQUIREMENT	403		-1
23	11/14/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
22	07/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	07/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	02/06/2006	REFERENCE CAPTURE ON IDS			
19.7	02/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	02/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	12/14/2004	PRELIMINARY AMENDMENT			
16	01/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	01/07/2005	APPLICATION RETURN FROM OIPE			
14	01/07/2005	APPLICATION RETURN TO OIPE			
13	01/07/2005	APPLICATION DISPATCHED FROM OIPE			
12	01/07/2005	APPLICATION IS NOW COMPLETE			
11	12/14/2004	ADDITIONAL APPLICATION FILING FEES			
10	12/14/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
9	12/14/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	12/14/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/29/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	10/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	09/21/2004	CLEARED BY OIPE CSR			
3	09/21/2004	CASE CLASSIFIED BY OIPE			
2	08/27/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/09/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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MAIL CODE 482-C23-B21
PO BOX 300
DETROIT, MI 48265

Mail Date: 04/21/2010

Applicant	: Jin D. Kim	: DECISION ON REQUEST FOR
Patent Number	: 7578455	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

AUG 09 2007

OFFICE OF PETITIONS

In re Application of :

SPURR, Nigel V. :
Application No. 10/914,431 : DECISION ON PETITION
Filed: August 9, 2004 : TO WITHDRAW
Attorney Docket No. **60130-2754 PUS1** : 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 4, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG WOESSNER & KLUTH PA** has been revoked by the assignee of the patent application on June 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CARLSON GASKEY & OLDS PC**
400 WEST MAPLE ROAD, SUITE 350
BIRMINGHAM, MI 48009

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO, IL 60654-5313

Mail Date: 04/21/2010

Applicant	: Ming-Ren Tarng	: DECISION ON REQUEST FOR
Patent Number	: 7642309	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Jay Li	: DECISION ON REQUEST FOR
Patent Number	: 7636490	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,440	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/914,446	08/09/2004	Leland S. Englebardt II	AP35952 - 070457.1560	5552

21003 7590 06/12/2009
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

EXAMINER
FRECH, KARL D

ART UNIT	PAPER NUMBER
2887	

NOTIFICATION DATE	DELIVERY MODE
06/12/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DLNYDOCKET@BAKERBOTTS.COM

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

BAKER BOTTS L.L.P.
30 Rockefeller Plaza, 44th Floor
New York, NY 1012-4498

In re Application of:
Leland S. Englebardt II
Serial No.: 10/914,446
Filed: April 29, 2009
For: SYSTEM AND METHOD FOR IDENTIFYING A PAYMENT CARD TYPE USING A HOLOGRAM

DECISION ON PETITION

This is a decision on the petition filed May 08, 2009, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned after a panel decision of January 29, 2009, on the pre-appeal brief request for review filed February 25, 2008. The panel decision indicated that the application would proceed with the appeal and reset a time period for filing an appeal brief to run one month from the date of the panel decision. Extensions of this time period are governed by 37 CFR 1.136. As such, the appeal brief must be submitted on or before July 29, 2009 along with appropriate petitions for extension of time and requisite fees. A Notice of Abandonment was mailed on April 29, 2009.

Petitioner asserts that the Notice of Abandonment was improper and should be withdrawn since the maximum time period for taking an action along with appropriate fees does expire until July 29, 2009.

The record reveals that the Notice of Abandonment was prematurely issued. The application is not abandoned in fact.

In view of the above-stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

July 29, 2009 will be the last day for the applicant to take appropriate action in response to the panel decision including an extension of time of 5 (five) months and requisite fees. .

Any inquiry regarding this decision should be directed to Steven Paik, Supervisory Patent Examiner, at (571) 272-2404.

Cassandra Spyrou, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of
Seok Lee, et al.
Application No. 10/914,463
Filed: August 10, 2004
Attorney Docket No.8733.776.20

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed November 5, 2007.

The petition is **DISMISSED AS MOOT**.

The above-identified application became abandoned on November 17, 2007, for what was believed to be a failure to file timely and proper response to the Office communication mailed December 26, 2006. The notice set a shortened period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on October 10, 2007, indicating that a response to the Office communication of December 26, 2007, was not received.

The instant petition to withdraw the holding of abandonment was filed on November 5, 2007. Petitioner maintains that a proper and timely response to the December 26, 2007, Office communication was filed on April 26, 2007, with a request for an extension of time within the third month. A review of the application file history reveals that on November 9, 2007, a "Decision *Sua Sponte* Withdrawing the Holding of Abandonment" was mailed in this application, wherein the holding of abandonment was withdrawn under the authority of the Director of Technology Center 2800. Because the holding of abandonment is being withdrawn as per the decision of November 9, 2007, there is no remedy that can be provided under the instant petition to withdraw the holding of abandonment. The petition is dismissed as moot.

Telephone inquiries regarding the withdrawal of the holding of abandonment and change of application's status in Office computer records should be directed to Technology Center 2800. Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland, MI 48641-1967

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DEC 2 4 2008

In re Application of	:	
Roland Bayer, et. al.	:	
Application No. 10/914,470	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. CH-8225/WW-5617	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 31, 2008, 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 June 25, 2008. A Notice of abandonment was mailed on October 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,510 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

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. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

This application file is being referred to the Office of Data Management 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

cc: Brian Hubbard
2040 Dow Center
Midland, MI 48674

UNITED STATES PATENT AND TRADEMARK OFFICE

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GEORGE FRENOY
863 SHOREWOOD DR.
BARTLETT, IL 60103

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DEC 21 2004

OFFICE OF PETITIONS

In re Application of :
George Frenoy :
Application No. 10/914,475 :
Received: August 9, 2004 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on papers filed on November 24, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 9, 2004, including page 9 of the specification.

The application was submitted on August 9, 2004. However, on October 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that page 9 of the specification appears to have been omitted.

In response, on November 24, 2004, the instant petition was submitted. Petitioner appears to assert that page 9 of the specification was filed on August 9, 2004. In support, petitioner has submitted a declaration by Laura Cholewa, an eye witness to what George Frenoy claims was filed, and a copy of a blank postcard receipt that is date-stamped by the PTO with August 9, 2004.

Laura Cholewa states, in pertinent part, "Before entering the post office George Frenoy went over with me the following items: title of invention, background of invention, brief summary of invention, brief description of the drawing of figure one, detailed description, claims and other application papers. I then saw George Frenoy put the items into the express mail envelope and return it back to the postal clerk on August 9, 2004."

The declaration has been considered, but is not persuasive. The Patent and Trademark Office (Office) file is the official record

of the papers originally filed in this application. A review of the official file reveals page 9 of the specification was not filed on August 9, 2004. Page 9 of the specification was not filed on August 9, 2004, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declaration relied on contains the declarant's recall of events which occurred more than three months earlier and are not more persuasive than the record of what was filed as shown by the official file.

Furthermore, it should be noted that the official file shows that the application transmittal letter contains a notation made by a PTO employee that one (1) page of specification was not found in the Express Mail envelope. This indicates that page 9 of the specification was not misplaced in the PTO, since the PTO employee who opened the Express Mail envelope recognized eleven (11) pages of specification were intended to be filed and found one (1) page to be missing.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which *itemizes* and *properly identifies* the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a postcard receipt that contains the PTO stamp the assigns the application number to the papers and date-stamped by the PTO as received on August 9, 2004. However, the postcard is otherwise blank and no items are listed thereon. No papers are found to be itemized or properly identified on the postcard.

As such, at the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

As the missing page of specification has not been submitted as of the mailing date of the instant decision, the application is not entitled to a filing date at this time and is still incomplete.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

01-19-05

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OIPE JC56
JAN 18 2005
PATENT & TRADEMARK OFFICE

GEORGE FRENOY
863 SHOREWOOD DR.
BARTLETT, IL 60103

COPY MAILED
DEC 21 2004
OFFICE OF PETITIONS

In re Application of :
George Frenoy :
Application No. 10/914,475 :
Received: August 9, 2004 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on papers filed on November 24, 2004, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 9, 2004, including page 9 of the specification.

The application was submitted on August 9, 2004. However, on October 7, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that page 9 of the specification appears to have been omitted.

In response, on November 24, 2004, the instant petition was submitted. Petitioner appears to assert that page 9 of the specification was filed on August 9, 2004. In support, petitioner has submitted a declaration by Laura Cholewa, an eye witness to what George Frenoy claims was filed, and a copy of a blank postcard receipt that is date-stamped by the PTO with August 9, 2004.

Laura Cholewa states, in pertinent part, "Before entering the post office George Frenoy went over with me the following items: title of invention, background of invention, brief summary of invention, brief description of the drawing of figure one, detailed description, claims and other application papers. I then saw George Frenoy put the items into the express mail envelope and return it back to the postal clerk on August 9, 2004."

The declaration has been considered, but is not persuasive. The Patent and Trademark Office (Office) file is the official record

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of the papers originally filed in this application. A review of the official file reveals page 9 of the specification was not filed on August 9, 2004. Page 9 of the specification was not filed on August 9, 2004, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declaration relied on contains the declarant's recall of events which occurred more than three months earlier and are not more persuasive than the record of what was filed as shown by the official file.

Furthermore, it should be noted that the official file shows that the application transmittal letter contains a notation made by a PTO employee that one (1) page of specification was not found in the Express Mail envelope. This indicates that page 9 of the specification was not misplaced in the PTO, since the PTO employee who opened the Express Mail envelope recognized eleven (11) pages of specification were intended to be filed and found one (1) page to be missing.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which *itemizes* and *properly identifies* the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a postcard receipt that contains the PTO stamp the assigns the application number to the papers and date-stamped by the PTO as received on August 9, 2004. However, the postcard is otherwise blank and no items are listed thereon. No papers are found to be itemized or properly identified on the postcard.

As such, at the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

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By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

As the missing page of specification has not been submitted as of the mailing date of the instant decision, the application is not entitled to a filing date at this time and is still incomplete.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/914,478	08/09/2004	James William Fahrny	CCCI 0134 PUS	5180

50764 7590 10/16/2008
BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER
LE, CANH

ART UNIT	PAPER NUMBER
2439	

MAIL DATE	DELIVERY MODE
10/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

MAILED

OCT 16 2008

TECHNOLOGY CENTER 2100

James Kallis
Brooks Kushman P.C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075

In re Application of: James Fahrny et al.	)	
Application No. 10/914,478	)	
Filed: August 9, 2004	)	**DECISION ON PETITION**
Attorney Docket #: CCCI 0134 PUS	)	**UNDER 37 CFR § 1.181 TO**
For: System and Method for Reduced	)	**INVOKE SUPERVISORY**
Hierarchy Key Management	)	**AUTHORITY**

This is a decision on the petition under 37 CFR 1.181, filed August 21, 2008 requesting the entry of an amendment which was refused entry in the Advisory action mailed on July 7, 2008.

CASE HISTORY

An Office action finally rejecting all claims pending in the above-referenced application was mailed on May 21, 2008. Applicant filed a proposed amendment after final on July 7, 2008. The Examiner responded to the submission with an Advisory action mailed August 21, 2008. The advisory action indicated the examiner did not enter the proposed amendment after-final because 1) it raises New Issues that would require further search and/or consideration, and 2) it did not place the case in better form for appeal by materially reducing or simplifying the issues for appeal.

Petitioner filed the instant petition on July 7, 2008, contending that the proposed amendment should have been entered and requesting withdrawal of the refusal to enter the proposed amendment as the examiner has already examined the proposed amended claims by virtue of examining independent claims 1 & 23 and it's directly dependent claims 3and 25 respectively in the final office action and the cancellation of all other claims places the application in better form for appeal.

RELIEF REQUESTED

The instant petition under 37 CFR § 1.181 requests the following relief:

Petitioners request that the refusal to enter the after final amendment be withdrawn and that the amendment be sufficiently considered pursuant to MPEP 714.13 and 37 CFR §1.116.

OPINION

The relevant section of the MPEP concerning entry of amendments after a final rejection is MPEP § 714.13 which states:

> ENTRY NOT A MATTER OF RIGHT
>
> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way ***requires only a cursory review by the examiner***, compliance with the requirement of a showing under 37 CFR 1.116(b) is expected in all amendments after final rejection.

The newly proposed claims are ***not equivalent to any previously presented claims***, but rather they comprise combinations of limitations not previously presented. For example, newly presented claim 1 recites "the identifier **of** the encrypted media stream" while the finally rejected claim 1 recited "the identifier **associated** with the encrypted media stream". This changing of the scope requires more than cursory review. As this amendment changes the scope of the claim new issues are newly raised for example is this new language obvious over the applied references thus the amendment fails to place the application in better form for appeal.

As set forth above, the amendment clearly fails to simplify the issues, in fact, it raises new issues and would have required further search and/or consideration if entered. As such, the examiner acted properly and within his duties to deny entry of this amendment.

The examiner's refusal to enter the proposed amendment is correct and consistent with Office policy and practice. Accordingly, the Petition to compel the examiner to enter the amendment is **Dismissed**.

A second point of contact is QAS Kim Huynh at (571) 272-4147.

/Tod Swann/
Tod Swann
Quality Assurance Specialist
Technology Center 2400
(571)-272-3612

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPARTMENT
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Carsten Curt Eckard, et. al.	:	
Application No. 10/914,485	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 308426.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2005, 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 executed Oath/Declaration, along with the late filing surcharge of $130, the filing fee of $790 and $400 in claim fees; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

MAIL

AUG 13 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Carsten Curt Eckard Rother *et al.*	:	
Serial No.: 10/914,485	:	
Filed: August 9, 2004	:	DECISION ON PETITION
For: BORDER MATTING BY DYNAMIC PROGRAMMING	:	*ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(a)(2) filed August 9, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1, 2A, 2B, 2C, 4A, 4B, 4C, 8B, 8C and 9 in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Eileen Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Peter M. Allred	: DECISION ON REQUEST FOR
Patent Number	: 7625210	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **790** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Robert Preston Parker	: DECISION ON REQUEST FOR
Patent Number	: 7584820	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100111

DATE : January 11, 2010

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 7,161,259

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 request for Certificate of Correction is denied, as the applicant fails to meet requirements of 37 CFR 1.78 (2) (i).

/T C Patel/
Supervisory Patent Examiner.Art Unit 2839

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of

SPURR, Nigel V.
Application No. 10/914,539
Filed: August 09, 2004
Attorney Docket No. **H006429 (256.189US1)**

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 04, 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 Billion 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: **NIGEL V. SPURR**
16 PATHLOW CRESCENT
SHIRLEY B90 2PS
UNITED KINGDOM

cc: **KARIN BUTCHKO**
CARLSON, GASKEY AND OLDS
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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

October 8, 2009

Patent No. : 7,271,220 B2
Ser. No. : 10/914,541
Inventor(s) : Marcel Janssens, et al.
Issued : September 18, 2007
Title : **MASTERBATCH CONTAINING ADHESIVE PMMA AND ITS USE FOR THE PRODUCTION OF POLYOLEFIN FILMS**
Docket No. : **24063-0002**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 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
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Patent No. 7,271,220	:	
Issued: September 18, 2007	:	
Application No. 10/914,541	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 24063-0002	:	

This is a decision on the petition, filed January 29, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to change the assignee on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment correcting the assignee's name from "A. SCHULMAN PLASTICS N.V." to "A. SCHULMAN PLASTICS" was recorded on September 28, 2009, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : February 16, 2007

Patent No. : 7,161,259
Inventor(s) :Hendrik Lambertus Lagerwey
Issued : January 9, 2007
Title : WIND POWER GENERATOR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction and a corrected patent under the provisions of Rule 1.322.

Accordingly, the alledged error concerning the omission of the priority data on the printed patent resulted from applicant's failure to fully comply with 35 U.S.C. 119, in that conditional requirements were not met.

In view of the forgoing, your request in this matter is hereby denied

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Richard J. Basile, Esq.
St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford, Connecticut 06905-5619

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : February 2, 2010

Patent No. :7161259
Inventor :Hendrik Lambertus Lagerwey
Patent Issued :January 9, 2007
Title :WIND POWER GENERATOR

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.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the omission of the Related Application data; entry is not warranted as the applicant fails to meet requirements of 37 CFR 1.79(2)(i).

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Richard J. Basile,
St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford, Ct 06905-5619

/arg

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Kent A. Young	:	
Application No. 10/914,549	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. VTN568CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 14, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 15, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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MAR 12 2010

OFFICE OF PETITIONS

In re Application of
Kent A. Young, et al.
Application No. 10/914,549
Filed: August 9, 2004
Attorney Docket No. VTN0586CIP

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 21, 2009. Accordingly, the date of abandonment of this application is November 22, 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 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
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
www.uspto.gov

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

11/25/08

In re Application of: MUSBACH, FRANK Serial No. 10/914,559 Filed: Aug. 9, 2004 Docket: S63.2-11530-US01 Title: FLAP-COVER ANEURYSM STENT	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Nov. 14, 2008 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Aug. 13, 2007 and an issuance of a non-final Office action.

The petition is Granted.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Jul.11, 2008 is hereby withdrawn. The examiner has been directed to mail a new non-final Office action to include the new grounds of rejection as stated in the advisory action of Oct. 15, 2008 as soon as possible.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, 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

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Polcek, Norma Ellen	:	
Application No. 10/914,585	:	ON PETITION
Filed: August 9, 2004	:	
Title: Cushioned Insole	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3728 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-20-08

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/914596 Patent No.: 7364302

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.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Patricia Assouad 11/24/08

2862

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES G. CALL
361 WILD COFFEE LANE
MARCO ISLAND, FL 34145

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JAN 0 6 2010

In re Patent of 7,512,117 :
Issued: March 31, 2009 :
Application No. 10/914,652 : NOTICE
Filed: August 9, 2004 :
Patentee(s): Robert Swartz

Receipt is acknowledged of your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 21, 2009.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

It is noted that the request is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Stephen R. Otis 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. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

A review of the record indicates that the balance of the fee of October 27, 2008 was previously submitted by a letter filed December 16, 2008; however, the United States Patent and Trademark Office failed to acknowledge the submission under 37 CFR 1.28.

The fee deficiency submission under 37 CFR 1.28 filed December 16, 2008 is hereby ACCEPTED.

In view of the above, the fee deficiency of $65 will **not** be charged to counsel's deposit account as requested in the present communication.

Since this application no longer qualifies for small entity status, all fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEPHEN R. OTIX
1181 WADE STREET
HIGHLAND PARK, IL 60035

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IP LEGAL DEPARTMENT
TYCO FIRE & SECURITY SERVICES
ONE TOWN CENTER ROAD
BOCA RATON FL 33486

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DEC 0 6 2006
OFFICE OF PETITIONS

In re Application of John R. Haynes et al. Application No. 10/914,666 Filed: August 9, 2004 Attorney Docket No. 20292.2	DECISION DISMISSING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 1, 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 referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until December 5, 2006. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted is unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

Mail Date: 04/21/2010

Applicant	: Jay S. Walker	: DECISION ON REQUEST FOR
Patent Number	: 7582012	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **618** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Xingwu WANG, et al	:	
Application No. 10/914,691	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. 1008 068 301 0251	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michael J. Nickerson and Duane C. Basch, have been revoked by the assignee of the patent application on February 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEDLEN & CARROLL, LLP
101 HOWARD STREET, SUITE 350
SAN FRANCISCO, CA 94105

In re Application of	:	
COLE, et al.	:	
Application No. 10/914,694	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. **PACKERS-09134**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 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 J. Mitchell Jones on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed January 24, 2008 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: **DARRYL W. COLE**
635 CLAIR STREET
MEXICO, MO 65265

cc: **TERRY CARLING-KELLY**
PACKERS CHEMICAL INC.
201 S. MISSOURI STREET
MEXICO, MO 65265

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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OFFICE OF PETITIONS

In re Application of :
Carlos Cesar Moyano Fernandez :
Application No. 10/914,725 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. 444.1001 :

This is a decision on the petition under 37 CFR 1.137(b), filed by May 26, 2005, to revive the above-identified application.

A review of the record discloses that a Notice to File Missing Parts (Notice) was mailed on October 7, 2004, requiring, *inter alia*, replacement claim(s) in compliance with 37 CFR 1.75(h) and 1.121, the statutory basic filing fee, an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). On May 9, 2005, petitioner submitted an executed declaration, the basic filing fee, surcharge and an appropriate petition for extension of time. Petitioner notes that an English translation is not being submitted. Petitioner explains that the requirement made in the Notice mailed October 7, 2004 for an English translation was made in error, since the application was filed in English. It is conceded that the requirement for an English translation was made in error. However, since the response filed May 9, 2005 did not include the replacement claim(s) required in the Notice, a Notice of Incomplete Reply (Nonprovisional) was mailed on May 18, 2005. In response, on May 26, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ARRIS INTERNATIONAL, INC
3871 LAKEFIELD DRIVE
SUWANEE, GA 30024

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SEP 19 2008

In re Application of	:	
Wade E. Carter, et al.	:	
Application No. 10/914,728	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 8180	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 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 14, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 15, 2008. On May 15, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Charles A. Mirho appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 2192 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FSP LLC
ATTN: CHARLES A. MIRHO
P.O. BOX 890
VANCOUVER, WA 98666-0890
USA

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OFFICE OF PETITIONS

CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

In re Application of	:	
Dennis Colleran, et al.	:	
Application No. 10/914,751	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. 04-001-US1 (IST-3459001)	:	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 26, 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 Gregory W. on behalf of all attorneys of record who are associated with customer No. 57004. All attorneys/agents associated with the Customer Number 57004 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: INNOVATIVE SPINAL TECHNOLOGIES
2745 N. DALLAS PARKWAY
SUITE 460
PLANO, TX 75093

cc: ECKERT, SEAMANS, CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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
10/914,751	08/09/2004	Dennis Colleran	04-001-US1 (IST-3459001)

CONFIRMATION NO. 7844

POWER OF ATTORNEY NOTICE

57004
CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

OC000000037488616

Date Mailed: 08/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/26/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Date Mailed: August 19, 2009
Patent No. :7,533,081 B2
Ser. No. :10/914770
Issued : May 12, 2009
Inventor(s) :Barbara De Lury
Title :SYSTEMS, METHODS AND APPARATUS TO DETERMINE RELEVANCE OF SEARCH RESULTS IN WHOLE/PART SEARCH

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, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Michael G. Smith
Ramirez & Smith
P.O. Box 341179
Austin, TX 78734

MD/mt

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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OFFICE OF PETITIONS

Applicant: Fedida et al.
Appl. No.: 10/914,841
Filing Date: August 9, 2004
Title: ION CHANNEL MODULATING ACTIVITY II
Attorney Docket No.: 480102.418
Pub. No.: US 2005/0119315 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 2, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, in the specification and claims.

The request is granted.

At least one of the errors may have been due to the quality of the text in the application. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

M Polutta

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 16, 2009

TO SPE OF : ART UNIT 1646 - SPE Gary B. Nickol.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/914,841 Patent No.: 7,507,545 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the patent be amended to remove U. S. Provisional Patent Application No. 60/467,159 from the Related U.S. Application Data?

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Art Unit 1646

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EDWARDS ANGELL
PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

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In re Application of	:	
Banerjee	:	
Application No. 10/914,848	:	DECISION
Filed: 10 August, 2004	:	
Attorney Docket No. 12667/2002	:	

This is a decision on the petition filed on 25 April, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 9 August, 2007, with reply due absent extension of time on or before 9 November, 2007.

The application went abandoned by operation of law after midnight 9 November, 2007.

The Office mailed the Notice of Abandonment on 25 April, 2008.

On 25 April, 2008, Petitioner filed the instant petition averring, *inter alia*, that a reply in the form of an amendment had been timely filed on Monday 11 February, 2008, with a request and fee for extension of time, and so evidenced with what are averred to be true copies of the reply, the extension of time (which was charged), the U.S. Postal Service (USPS) Express Mail Label No. EM006544310US, and the date-stamped ("FEB 11 2008") receipt card.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

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.

[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).

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.[2] (*See*, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing required.

CONCLUSION

.Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 25 February, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 1617 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MINTZ, LEVIN, COHN, FERRIS
GLOVSKY AND POPEO, P.C.
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
R. Allen VAN CAMP	:	
Application No. 10/914,851	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. 28681-012 CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 8, 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 T. J. Clark on behalf of the attorneys of record associated with Customer No. 30623.

The attorneys of record associated with Customer No. 30623 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of

the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: R. ALLEN VAN CAMP
3918 S. ORTONVILLE ROAD, SUITE C
CLARKSTON, MI 48348

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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OFFICE OF PETITIONS

In re Patent No. 7,425,192
Issued: September 16, 2008
Application No. 10/914,856
Filed: August 9, 2004
Attorney Docket No. 350930-0121

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R, §1,705" filed November 14, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred eighty-three (283) days to three hundred sixty-six (366) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into US Patent No. 7,425,192 with a patent term adjustment of 283 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 366 days, which is the sum of 83 days of patent term adjustment due to exceeding three year pendency and 373 days due to USPTO delay in prosecution."

The 83-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 9, 2004, and the patent having been issued on September 16, 2008, three years and 83 days later. Patentees assert that in addition to this 83-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 373 days for the failure by the Office to mail at least one of a

notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 90 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 (83 days) and the period of Examination Delay (373 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. Accordingly, patentees submit that the total period of adjustment for Office delay is 283 days, which is the sum of the period of Three Year Delay (83 days) and the period of Examination Delay (373 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 283 days (83 + 373 reduced by 0 overlap – 90 (applicant delay)).

The Office agrees that as of the issuance of the patent on September 16, 2008, the application was pending three years and 83 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 283 days is correct. At issue is whether patentees should accrue 83 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 373 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 83 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 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) (I) (B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b) (2) (A) is the entire period during which the application was pending before the Office until the filing of the RCE, August 9, 2004 to October 31, 2007. During that time, the issuance of the patent was delayed by 373 days, not 83 + 373 days. The Office took 14 months and 373 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 373 days of Office delay and the 90 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 83 days after its filing date. The Office did not delay 373 days and then an additional 83 days. Accordingly, 373 days of patent term adjustment (not 373 and 83 days) was properly entered since the period of delay of 83 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 373 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 373 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 83 days over three years.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

KAF

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for 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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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MAR 1 5 2006
OFFICE OF PETITIONS

Applicant: Fedida et al.
Appl. No.: 10/914,864
Filing Date: August 9, 2004
Title: ION CHANNEL MODULATING ACTIVITY I
Attorney Docket No.: 480102.417
Pub. No.: US 2005/0070552 A2
Pub. Date: March 31, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 31, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 3 1 2007

OFFICE OF PETITIONS

ERIC HANSCOM
7395 PORTAGE WAY
CARLSBAD, CA 92011

In re Application of :
L. Shabram, Jr., et al. :
Application No. 10/914,869 : ON PETITION
Filed: august 9, 2004 :
Attorney Docket No. 033775-009

This is a decision on the petition under 37 CFR 1.137(a), filed August 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to file a timely and proper response to the final Office action mailed December 20, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date and required a terminal disclaimer to be filed. On January 8, 2007, applicant filed a terminal disclaimer and paid the required fee. A request for an extension of time within the third month was filed on June 20, 2007. The record reflects that on June 22, 2007, a communication was placed in the application file indicating that the terminal disclaimer filed January 8, 2007, was disapproved. A Notice of Abandonment was mailed on July 23, 2007.

Petitioner has established that the delay in responding to the final Office action was unavoidable because the Office did not provide petitioner with any indication of the status of the terminal disclaimer until after the application became abandoned on June 21, 2007.

The file is now being forwarded to Technology Center 3600, GAU 3637 for further processing, including review of the Request for Continued Examination filed August 2, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

OIPE IAP19
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

DAL 9
TN

PATENT

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 address to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date of Signature and Deposit: March 1, 2007, By: _____
Jeremy J. Westlake, Reg. No. 57,470

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Janus Bartelick
Patent No.:	7,157,668
Serial No.:	10/914,880
Filed:	August 9, 2004
For:	OVEN INCLUDING SMOKING ASSEMBLY IN COMBINATION WITH ONE OR MORE ADDITIONAL FOOD PREPARATION ASSEMBLIES
Att'y Docket No.:	110074.00006

REQUEST TO CORRECT INVENTORSHIP IN A PATENT UNDER 37 C.F.R. § 1.324(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Requester, Alto-Shaam, Inc., is named on the aforesaid patent as the assignee, and is currently the owner of record of the aforesaid patent. The assignee hereby requests, pursuant to 35 U.S.C. § 256 and its implementing regulation 37 C.F.R. § 1.324, that the inventorship of the referenced patent be changed to also include co-inventors, William J. Hansen, a U.S. citizen residing at Pewaukee, Wisconsin and Patrick A. Willis, a U.S. citizen residing at Glendale, Wisconsin.

03/08/2007 YPOLITE1 00000036 170055 7157668
01 FC:1464 130.00 DA

The patent as filed listed Janus Bartelick as the inventor. William J. Hansen and Patrick A. Willis were inadvertently omitted as co-inventors. The omission was made without deceptive intention.

In support of this request under 37 C.F.R. § 1.324(a) we submit:

1. A statement from Mr. Hansen under 37 C.F.R. § 1.324(b)(1) confirming that the inventorship error occurred without any deceptive intention on his part;

2. A statement from Mr. Willis under 37 C.F.R. § 1.324 (b)(1) confirming that the inventorship error occurred without any deceptive intention on his part;

3. A statement from Mr. Bartelick under 37 C.F.R. § 1.324(b)(2) confirming that he has no disagreement in regard to the change;

4. A statement from Alto-Shaam, Inc., the requestor and assignee, under 37 C.F.R. § 1.324(b)(3) consenting to the change;

5. Authorization to charge the processing fee set forth in 37 C.F.R. § 1.20(b), as required by 37 C.F.R. 1.324(b)(4);

6. A statement under Rule 3.73(b), as referred to in 37 C.F.R. § 1.324(b)(3), confirming Alto-Shaam, Inc., authority to file this petition; and

7. An Assignment executed by Mr. Hansen and Mr. Willis.

These statements confirm that all parties involved acquiesce to the addition of Mr. Hansen and Mr. Willis as co-inventors, and that the error was made without deceptive intention.

The Commissioner is hereby authorized to charge the fee of $130.00 required under 37 C.F.R. § 1.20(b) to Deposit Account Number 17-0055. No other fee is believed to be necessary in connection with the filing of this request. However, if any fees are required, the Commissioner is authorized to charge any fees that may be due on this application to Deposit Account 17-0055.

Respectfully submitted,

ALTO-SHAAM, INC.

Dated: March 1, 2007

By: _____

Jeremy J. Westlake
Quarles & Brady LLP
Reg. No. 57,470
Attorney for Applicant
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
PH: (414) 277-5723
FAX (414) 978-8792

OIPE IAP19
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Janus Bartelick, et al.
Patent No.:	7,157,668
Application No.:	10/914,880
Filing Date:	August 9, 2004
Title:	Oven Including Smoking Assembly in Combination with One or More Additional Food Preparation Assemblies
Att'y. Docket No.:	110074.00006

STATEMENT UNDER RULE 37 C.F.R. 1.324(b)(1)

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I,.William J. Hansen, a U.S. citizen residing in Pewaukee, Wisconsin, hereby declare that:

1. I am a co-inventor of the above-referenced patent; and
2. My name was inadvertently omitted as a co-inventor of the patent due to an error that occurred without deceptive intention on my part.

Respectfully submitted,

02, 20, 2007
Dated

William J. Hansen

QBMKE\6036763.1

OIPE IAP19
MAR 0 8 2007
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Janus Bartelick, et al.
Patent No.:	7,157,668
Application No.:	10/914,880
Filing Date:	August 9, 2004
Title:	Oven Including Smoking Assembly in Combination with One or More Additional Food Preparation Assemblies
Att'y. Docket No.:	110074.00006

STATEMENT UNDER RULE 37 C.F.R. 1.324(b)(1)

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Patrick A. Willis, a U.S. citizen residing in Glendale, Wisconsin, hereby declare that:

1. I am a co-inventor of the above-referenced patent; and
2. My name was inadvertently omitted as a co-inventor of the patent due to an error that occurred without deceptive intention on my part.

Respectfully submitted,

2-21-, 2007
Dated

Patrick A. Willis

QBMKE\6036768.1

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MAR 0 8 2007
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Janus Bartelick, et al.
Patent No.:	7,157,668
Application No.:	10/914,880
Filing Date:	August 9, 2004
Title:	Oven Including Smoking Assembly in Combination with One or More Additional Food Preparation Assemblies
Att'y. Docket No.:	110074.00006

STATEMENT UNDER 37 C.F.R. SECTION 1.324(b)(2)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Sir:

I, Janus Bartelick, was named as an inventor in the above-noted patent.

I do not disagree to the change of inventorship adding William J. Hansen and Patrick A. Willis as joint inventors.

Respectfully submitted,

Dated: 02. 20, 2007

Janus Bartelick

QBMKE\6036769.1

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PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Janus Bartelick, et al.
Patent No.:	7,157,668
Application No.:	10/914,880
Filing Date:	August 9, 2004
Title:	Oven Including Smoking Assembly in Combination with One or More Additional Food Preparation Assemblies
Att'y. Docket No.:	110074.00006

STATEMENT UNDER 37 C.F.R. SECTION 1.324(b)(3)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Alto-Shaam, Inc. is the assignee to the entire right, title, and interest of U.S. Patent Number 7,157,668, as evidenced by the attached statement under 37 § C.F.R. 3.73(b). Alto-Shaam, Inc. consents to a change in inventorship of U.S. Patent Number 7,157,668 to include co-inventors, Mr. William J. Hansen, a U.S. citizen residing at Pewaukee, Wisconsin, and Patrick A. Willis, a U.S. citizen residing at Glendale, Wisconsin, in addition to inventor Janus Bartelick of Germantown, Wisconsin.

By: _____

Name: William J. Hansen

Title: Vice President, Engineering, of Alto-Shaam, Inc.

Date: 02, 20, 2007

QBMKE\6036781.1

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MAR 0 8 2007
PATENT & TRADEMARK OFFICE

Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Alto-Shaam, Inc.

Application No./Patent No.: 7,157,668 Filed/Issue Date: January 2, 2007

Entitled: Oven Including Smoking Assembly in Combination with One or More Additional Food Preparation...

Alto-Shaam, Inc., a corporation
(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 has been or concurrently is being submitted for recordation and a copy of which is attached hereto.

OR

B. ☑ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Janus Bartelick To: Alto-Shaam, Inc.
The document was recorded in the United States Patent and Trademark Office at
Reel 061794, Frame 0817, or for which a copy thereof is attached.

2. From: William J. Hansen To: Alto-Shaam, Inc.
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: Patrick A. Willis To: Alto-Shaam, Inc.
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.

☑ Copies of assignments or other documents in the chain of title are attached.
[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, if the assignment is to be recorded 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: [signature] Date: 02, 20, 2007

Printed or Typed Name: William J. Hansen Telephone Number: (262) 251-3800

Title: Vice President, Engineering, of Alto-Shaam, Inc.

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.

Doc. No. MKE/6039748

Assignment

WHEREAS, the undersigned have/has made certain inventions which are described in an application for Letters Patent of the United States entitled :

OVEN INCLUDING SMOKING ASSEMBLY IN COMBINATION WITH ONE OR MORE ADDITONAL FOOD PREPARATION ASSEMBLIES

and identified by Application Serial No. 10/914,880 preparatory to obtaining United States Letters Patent therefore, and WHEREAS,

Alto-Shaam, Inc. (hereafter referred to as said Company),

a corporation of the state of Wisconsin

and having a place of business at W164 N9221 Water Street, Menomonee Falls, WI 53052-0450

is desirous of acquiring the entire interest in said inventions throughout the United States of America and the territories thereof, for all other countries and under all international agreements,

NOW, THEREFORE, for and in consideration of One Dollar ($1.00), and other good and valuable consideration, receipt whereof is hereby acknowledged, the undersigned hereby sell(s), assign(s) and transfer(s) unto said Company, its successors and assigns, the entire right, title and interest throughout the United States of America and the territories thereof, for all foreign countries and under all international agreements in and to said inventions, the aforesaid application, all other applications hereafter filed in the United States, in any other country, or under any international agreement based in whole or in part on said inventions, and all Letters Patents granted upon said applications by the United States, by any other country or under any international agreement, and do hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said Company. The undersigned further grant to said Company, its successors and assigns, the right to claim for any of said applications the full benefits and priority rights of any international agreement between the United States and any foreign country or countries of between any other countries.

The undersigned hereby warrant(s) that they/(s)he have/has the full right to make the conveyance herein, and hereby covenant(s) that the heirs, legal representatives and assigns of the undersigned, will when requested, communicate to said Company, its representatives, successors and assigns, all facts known respecting said inventions, execute all divisional, continuing, reissue, reexamination and foreign or international applications, together with individual assignment therefore, make all rightful oaths, sign all lawful papers, testify in any legal proceeding and generally do everything possible to aid said Company, its successors ands assigns, in the obtaining of Letters Patent.

IN TESTIMONY WHEREOF, the undersigned have hereunto executed this assignment at the location and on the date indicated below.

Signature: [signature]

Name: William J. Hansen

Address: W283 N3871 Yorkshire Trace

Pewaukee, WI 53072

Date: 02, 20, 2007

STATE OF: WISCONSIN

COUNTY OF: WAUKESHA

Before me on this 20 day of February, 2007, came William J. Hansen to me known to be the person named in the foregoing assignment and he/she acknowledges his/her execution therefore to be his/her free act and deed.

(SEAL)

Vivian J. Wagner

Notary Public,
State of WISCONSIN
My Commission Expires: 9/6/09

VIVIAN J. WAGNER NOTARY PUBLIC STATE OF WISCONSIN

MKE/6036102

Signature: Patrick A. Willis

Name: Patrick A. Willis

Address: 2345 W. Skyline Road

Glendale, WI 53209

Date: 2-21, 2007

STATE OF: WISCONSIN

COUNTY OF: WAUKESHA

Before me on this 21 day of February, 2007, came Patrick A. Willis to me known to be the person named in the foregoing assignment and he/she acknowledges his/her execution therefore to be his/her free act and deed.

(SEAL)

Notary Public,
State of WISCONSIN
My Commission Expires: 04-25-2010

Signature:

Name:

Address:

Date:

STATE OF:

COUNTY OF:

Before me on this _____ day of _____, _____, came to me known to be the person named in the foregoing assignment and he/she acknowledges his/her execution therefore to be his/her free act and deed.

(SEAL)

Notary Public,
State of
My Commission Expires: _____

Signature:

Name:

Address:

Date:

STATE OF:

COUNTY OF:

Before me on this _____ day of _____, _____, came to me known to be the person named in the foregoing assignment and he/she acknowledges his/her execution therefore to be his/her free act and deed.

(SEAL)

Notary Public,
State of
My Commission Expires: _____

MKE/6036102

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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KYLE FLYDNT
SCHWABE, WILLIAMSON & WYATT, P.C.
U.S. BANK CENTRE
1420 FIFTH AVENUE, SUITE 3010
SEATTLE, WA 98101--239

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Wilson	:	
Application No. 10/914,894	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. 113062-141889	:	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 15, 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, "our representation agreement with this client has been terminated" does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Recycle Technologies International, LLC
PO Box 157
Orem, UT 84059

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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SCHWABE, WILLIAMSON & WYATT, P.C.
U.S. BANK CENTRE
1420 FIFTH AVENUE, SUITE 3010
SEATTLE, WA 98101

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APR 2 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey Wilson, et al.	:	
Application No. 10/914,894	:	DECISION ON PETITION
Filed: August 9, 2004	:	TO WITHDRAW
Attorney Docket No. 113062-141889	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 19, 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 Kyle H. Flindt on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on March 5, 2007 does not include a statement under 3.73(b).

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: GEOFFREY WILSON
PO BOX 291
HERBER CITY, UT 84032

cc: RECYCLE TECHNOLOGIES INTERNATIONAL, LLC
ATTEN: MR DICK BRUNST, JR.
PO BOX 157
OREM, UT 84059

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
10/914,894	08/09/2004	Geoffrey Wilson	HES-003CP2

CONFIRMATION NO. 7432

OC000000023541954

OC000000023541954

25943
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Date Mailed: 04/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2006.

- 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 McGuire

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/10/08

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10914904 Patent No.: 7311783

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

_____
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: All corrections approved.

PH

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

AU 1792

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/10/08

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10914904 Patent No.: 7311783

Please respond to this request for a certificate of correction within 7 days.

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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
[redacted]

_____
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: all corrections approved.

PH

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

AU 1792

PAGE 1/2 * RCVD AT 9/11/2008 9:57:45 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/27 * DNIS:2709990 * CSID:703 306 3186 * DURATION (mm-ss):00-32

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE **Art Unit**

PAGE 2/2 * RCVD AT 9/11/2008 9:57:45 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/27 * DNIS:2709990 * CSID:703 306 3186 * DURATION (mm-ss):00-32

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IANDIORIO & TESKA
INTELLECTUAL PROPERTY LAW ATTORNEYS
260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of :
O'Dowd et al. :
Application No. 10/914,909 : Decision on Petition
Filed: August 10, 2004 :
Attorney Docket No. AD-361J :

This is a decision on the petition filed January 25, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 1 of the specification was part of the originally filed application.

The application was filed August 10, 2004. On November 26, 2004, a Notice was mailed stating that page 1 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 1 of the specification was deposited on August 10, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 27 pages of specification on August 10, 2004.[1]

The USPTO file for this application includes only 26 pages of specification numbered 2-27, and does not include page 1 of the specification. However, based on the evidence submitted, the Office concludes the page 1 of the specification was part of the application but was later misplaced. Therefore, the petition is **granted**.

The petition fee of $130 will be credited to deposit account no. 09-0002.

The Notice mailed November 26, 2004, is vacated to the extent the Notice indicated page 1 of the specification had not been filed.

The Office of Initial Patent Examination will process the application with a filing date of August 10, 2004, using the application papers filed on August 10, 2004, and the copy of page 1 of the specification filed on January 25, 2005.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Gregory S. Pettitt	: DECISION ON REQUEST FOR
Patent Number	: 7576759	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/914,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1347** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MURANMATSU & ASSOCIATES
114 PACIFICA, SUITE 310
IRVINE, CA 92618

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MAY 2 2 2008

OFFICE OF PETITIONS

In re Application of :
BURCHARDT, et al. :
Application No. 10/914,916 :
Filed: August 10, 2004 :
Attorney Docket No. **ANWAL.055AUS** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 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, February 15, 2006, which set a shortened statutory period for reply of three (3) months. A (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

A review of the record discloses that a response was filed on June 27, 2006, without an appropriate petition for extension of time. Accordingly, by a notice mailed July 5, 2006, applicant was advised that a (1) month extension of time was necessary to make the response timely. Rather than submitting an appropriate 3-month extension of time, applicant filed a one (1) month extension of time and fee on July 20, 2006. A Notice of Abandonment was subsequently mailed on April 27, 2007.

It is also noted that a three (3) month extension was concurrently filed with the petition. Unfortunately, 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 $330 extension fee submitted with the petition on July 25, 2007 was subsequent to the maximum extendable period for reply and therefor unnecessary, petitioner may request a refund of the $330 extension fee. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being referred to Technology Center Art Unit 3725 for consideration of the amendment filed June 27, 2006.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 3, 2006

Lisa B. Kole
BAKER BOTTS, LLP
30 Rockefeller Plaza
44th Floor
New York, NY 10112-4498

Patent No.: 6982150 B2
Application No.: 10/914924
Inventor(s): **Michael P. Sheetz**
Issued: January 3, 2006
Title: **SYSTEM AND METHOD FOR IDENTIFYING PROTEINS INVOLVED IN FORCE-INITIATED SIGNAL TRANSDUCTION**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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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LISA B. KOLE
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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APR 20 2007
OFFICE OF PETITIONS

In re Patent No. 6,982,150	:	
Issued: January 3, 2006	:	
Application No. 10/914,924	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 35015-PCT-USA-A	:	

This is a decision on the petition filed April 18, 2006, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "The Trustees of Columbia University in the City of New York."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from joint inventors, Michael P. Sheetz and Yasuhiro Sawada to The Trustees of Columbia University in the City of New York was recorded on February 8, 2006, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

It is noted that a duplicate of the present petition, including fees of $230, was filed on September 18, 2006. Therefore the $230 fees overpaid on September 18, 2006 are being credited to counsel's deposit account.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MIRICK OCONNELL DEMALLIE & LOUGEE LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Mack, et al.	:	
Application No. 10/914,931	:	DECISION ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 18451-00005	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 2, 2008.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed September 17, 2007. This Office action set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on December 5, 2007. However, by Advisory Action mailed December 20, 2007, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. The Office mailed a Notice of Abandonment was mailed on August 19, 2008, stating that a proper reply to the final Office action had not been received.

A review of the application file reveals the presence of a Notice of Appeal, filed on January 14, 2008. A review of Office finance records reveals that the Office did in fact receive the fee for the Notice of Appeal, together with the required one month extension needed to make the Notice of Appeal timely. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

Receipt of the Appeal Brief, filed on August 13, 2008 with a five month extension of time, is acknowledged.

The matter is being forwarded to Group Art Unit 1794 for consideration of the Appeal Brief filed August 13, 2008.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
SHEHA, Michael A. et al.	:	
Application No. 10/914,933	:	DECISION ON PETITION
Filed: August 09, 2004	:	TO WITHDRAW
Attorney Docket No. 513162000700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 23, 2010. 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- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MANELLI DENISON & SELTER PLLC**
ATTN: WILLIAM H. BOLLMAN
2000 M STREET, NW
7TH FLOOR
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

In re Application of	:	
Boone et al.	:	
Application No. 10/914934	:	ON PETITION FOR
Filing or 371(c) Date: 08/09/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket Number: 27860-35	:	

This is in response to the PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b), filed September 18, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least 1355 days, not 896 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. The petition is properly treated as an application for patent term adjustment.

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 a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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 Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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.

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Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Boone et al.	:	
Patent Number: 7,645,540	:	DECISION ON REQUEST
Issue Date: 01/12/2010	:	FOR RECONSIDERATION OF
Application No. 10/914934	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 08/09/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
27860-35	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred seventy-one (1471) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred seventy-one (1471) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred seventy-one (1471) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,645,540 B2

DATED : **January 12, 2010**

INVENTOR(S) : Boone 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 896 days.

Delete the phrase "by 896 days" and insert – by 1471 days--

Please increase PTA by 575 days for B delay.

Need to charge fee and timely filed.

Other considerations:

B Max = 887
B Ded = 0
B Net = 887
Overlap = 312
A delay = 981
C delay = 0
App delay = 85

A	+ B Net	+ C	– Overlap	– App Delay	= Total
981	+ 887	+ 0	– 312	– 85	= 1471

PALM INTRANET

Day : Friday
Date: 4/30/2010
Time: 20:12:29

PTA Calculations for Application: 10/914934

Application Filing Date:	08/09/2004	PTO Delay (PTO):	981
Issue Date of Patent:	01/12/2010	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	85
Post-Issue Petitions:	0	Total PTA (days):	896
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82.5	12/23/2009	PTA 36 MONTHS			
82	01/12/2010	PATENT ISSUE DATE USED IN PTA CALCULATION			
81	12/15/2009	EXPORT TO FINAL DATA CAPTURE			
80	12/11/2009	DISPATCH TO FDC			
79	12/11/2009	EMAIL NOTIFICATION			
78	12/08/2009	MAIL-PETITION DECISION - DISMISSED			
77	12/07/2009	PETITION DECISION - DISMISSED			
76	09/25/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
75	09/18/2009	ISSUE FEE PAYMENT VERIFIED			
74	09/18/2009	PETITION ENTERED			
73	09/18/2009	ISSUE FEE PAYMENT RECEIVED			
72	08/05/2009	FINISHED INITIAL DATA CAPTURE			
71	06/19/2009	EXPORT TO INITIAL DATA CAPTURE			
68	06/18/2009	MAIL NOTICE OF ALLOWANCE			
67	06/16/2009	ISSUE REVISION COMPLETED			
66	06/16/2009	DOCUMENT VERIFICATION			
65	06/16/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	06/16/2009	CASE DOCKETED TO EXAMINER IN GAU			
63	06/15/2009	NOTICE OF ALLOWABILITY			
59	06/08/2009	DATE FORWARDED TO EXAMINER			
58	06/08/2009	AMENDMENT AFTER FINAL REJECTION		27	49
57	06/08/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	05/19/2009	EMAIL NOTIFICATION			
55	05/19/2009	MAIL ADVISORY ACTION (PTOL - 303)			
54	05/15/2009	ADVISORY ACTION (PTOL-303)			
53	05/12/2009	DATE FORWARDED TO EXAMINER			
52	05/12/2009	AMENDMENT AFTER FINAL REJECTION			
51	02/12/2009	ELECTRONIC REVIEW			
50	02/12/2009	EMAIL NOTIFICATION			
49	02/12/2009	MAIL FINAL REJECTION (PTOL - 326)			
48	02/09/2009	FINAL REJECTION			

47	11/13/2008	NEW OR ADDITIONAL DRAWING FILED			
46	12/02/2008	DATE FORWARDED TO EXAMINER			
45	11/13/2008	RESPONSE AFTER NON-FINAL ACTION		58	41
44	11/13/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	06/17/2008	ELECTRONIC REVIEW			
42	06/16/2008	EMAIL NOTIFICATION			
41	06/16/2008	MAIL NON-FINAL REJECTION	981		-1
40	06/11/2008	NON-FINAL REJECTION			
39	04/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	07/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	06/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	04/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	03/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	05/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	04/24/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
32	04/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	01/16/2008	PRELIMINARY AMENDMENT			
30	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
29	10/15/2007	FLAGGED FOR 5/25			
28	10/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
27	10/05/2006	MISCELLANEOUS INCOMING LETTER			
26	07/10/2006	REFERENCE CAPTURE ON IDS			
25.7	07/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	07/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24.7	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23.7	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/30/2006	REFERENCE CAPTURE ON IDS			
21.7	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/13/2005	REFERENCE CAPTURE ON IDS			
19.7	05/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	02/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	12/27/2004	APPLICATION RETURN FROM OIPE			
15	12/27/2004	APPLICATION RETURN TO OIPE			
14	12/27/2004	APPLICATION RETURN FROM OIPE			
13	12/27/2004	APPLICATION IS NOW COMPLETE			
12	12/27/2004	APPLICATION RETURN TO OIPE			
11	12/27/2004	APPLICATION DISPATCHED FROM OIPE			

10	12/27/2004	APPLICATION IS NOW COMPLETE			
9	12/10/2004	ADDITIONAL APPLICATION FILING FEES			
8	12/10/2004	SMALL ENTITY STATEMENT (37 CFR 1.27)			
7	12/10/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	10/05/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	09/20/2004	CLEARED BY OIPE CSR			
3	09/20/2004	CASE CLASSIFIED BY OIPE			
2	08/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

BMAX = 887
BDel = 0
BNet = 887
Overlap = 312 (8-10-07 to 6-16-08)

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

A = 981
C = 0
App = 85

981 + 887 + 0 - 312 - 85 = 1471

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Christopher M. Goff (27860)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 08/03/2010

Applicant	: David Boone	: DECISION ON REQUEST FOR
Patent Number	: 7645540	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/914,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2046** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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J.C. PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

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JAN 07 2008

OFFICE OF PETITIONS

In re Patent No. 7,205,201 :
Issue Date: April 17, 2007 :
Application No. 10/914,943 : NOTICE
Filed: August 9, 2004 :
Patentee(s): Chih-Feng Huang, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 7, 2007. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CHICAGO IL 60606

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Duddling et al.	:	
Application No. 10/914,978	:	DECISION ON PETITION
Filed: 10 August, 2004	:	
Atty Docket 0715-0166.11	:	
	:	

This is a decision on the petition filed on 2 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 21 October, 2006, for failure to timely submit the issue and publication fees in response to

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the Notice of Allowance and Fee(s) Due mailed on 20 July, 2006. Notice of Abandonment was mailed on 29 November, 2006.

Receipt of the issue and publication fees is acknowledged.

The application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 3791
ORLANDO FL 32802-3791

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of	:
Regnier et al.	: DECISION ACCORDING STATUS
Application No. 10/914,982	: UNDER 37 CFR 1.47(a)
Filed: 10 August, 2004	:
Atty Docket No. 55315CON2	:

This is in response to the petition under 37 CFR 1.47(a) filed on 10 August, 2004.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, James A. Proctor, Jr., has refused to review the application, which is a continuation of Application No. 10/282,928, for which a copy a of the declaration and application papers have been supplied. Specifically, petitioners have shown, via the petition filed by registered patent attorney David J. Thibodeau, Jr., that a copy of the application papers were sent by E-mail and certified mail to the last known address of non-signing inventor Proctor, but that he failed to return an executed declaration naming him as a joint inventor along with John A. Regnier, Michael J. Lynch, and Thomas E. Gorsuch.

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, not the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The petition fee of $130.00 due on 10 August, 2004, will be charged to counsel's deposit account, No. 01-0484, as authorized on the fee transmittal sheet filed on 24 June, 2005.

The application will be forwarded to Technology Center Art Unit 3662 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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James A. Proctor, Jr.
258 Sea View St
Melbourne FL 32951

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of
Regnier et al.
Application No. 10/914,982
Filed: 10 August, 2004
For: METHOD AND APPARATUS FOR ADAPTING ANTENNA ARRAY USING RECEIVED PREDETERMINED SIGNAL

Dear Mr. Proctor:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CHICAGO IL 60661

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Yeager	:
Application No. 10/914,995	: DECISION ON PETITION
Filed: August 10, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HUD2585P0484US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3727 for appropriate action on the amendment filed March 11, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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JUN 14 2005

Yehuda Tamari
21 Singworth St.
Oyster Bay NY 11771-3703

In re Application of	:	
Tamari Yehuda	:	
Serial No.: 10/915,000	:	DECISION ON PETITION
Filed: August 9, 2004	:	
For: A Soft Shell Venous Reservoir	:	
With Improved Air Handling	:	

This is in response to applicants' petition filed Apil 29, 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, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Patent No. 7,416,852	:	
Progulske-Fox et al.	:	DECISION DISMISSING
Application No. 10/915,002	:	REQUEST FOR
Issue Date: August 26, 2008	:	RECONSIDERATION OF
Filed: August 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 02-042-A	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)-(d)," filed on October 22, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from sixty-one (61) to four hundred and forty-three (443) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

OPINION

On August 26, 2008, the application matured into U.S. Patent No. 7,416,852, with a revised patent term adjustment of 61 days.

On October 22, 2008, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentees argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 (JR), that it is entitled to a total patent term adjustment of 443 days, which is the sum of the 382 days of patent term adjustment

due to exceeding the three year pendency (the application issued into a patent 3 years and 382 days after filing) plus 184 days due to USPTO delay in prosecution, minus the 123 days of applicant delay.

It is noted however that a Request for Continued Examination (RCE) was filed 3 years and 3 days after the filing date of this application.[1] As such, patentee's argument is being construed as an assertion that it is entitled to a total patent term adjustment of 64 days, which is the sum of the 3 days of patent term adjustment due to exceeding the three year pendency plus 184 days due to USPTO delay in prosecution, minus the 123 days of applicant delay.

However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 3 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 184 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered.

It follows that the proper period of adjustment for Office delay was properly calculated to be 184 days.

In view thereof, the patent issued with a revised patent term adjustment of 61 (184 - 123) days.

---

[1] Pursuant to 37 C.F.R. § 1.702(b)(5), the term of a patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed, but not including "[a]ny delay in the processing of the application by the Office that was requested by the applicant."

Patentees argue that the determination of 61 days is in error in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 3 days. This 3-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 10, 2004, and a RCE was filed on August 13, 2007, which is three years and 3 days after the filing of this application.

In short, patentees do not agree with the Office's determination that the period of delay of 3 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 184 days attributable to grounds specified in § 1.702(a)(1).

The period of reduction of 123 days for applicant delay is not in dispute. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (3 days) and the period of Examination Delay (184 days) less the period of Applicant Delay (123 days) to the extent that these periods of delay are not overlapping.

As such, patentees assert entitlement to a patent term adjustment of 64 days (3 plus 184 reduced by 123).

The Office agrees that an RCE was filed 3 years and 3 days after the filing date of this application. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 184 days for Office delay and 123 days for Applicant delay are correct. At issue is whether the period of delay of 3 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 184 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the period of 184 days attributable to grounds specified in § 1.702(a)(1) overlaps with these 3 days. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's

interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final*

> *Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (June 15, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a

> patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not as argued by patentees overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on August 10, 2007, the date that is 3 years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 10, 2004 to August 13, 2007 (the date on which the RCE was filed). (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 61 days of patent term adjustment were accorded since the period of delay of 3 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 184 days attributable to grounds specified in § 1.702(a)(1). Accordingly, at issuance, the Office properly entered 61 days (184 - 123 days) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 61 days. The patent properly issued with this indication contained thereon, and no further action is required.

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[3] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[3] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, **37 CFR § 1.702**, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[4]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in

---

[4] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

an international application and ending on the date a patent was issued, but not including the sum of the following periods[5]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

---

[5] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

CONCLUSION

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of
William J. Jones et al.
Application No. 10/915,003
Filed: August 10, 2004
Attorney Docket No. 47171-00135USD4

DECISION GRANTING PETITION

This is a decision on the petition filed December 6, 2004, in response to the "Notice of Omitted Items" mailed October 6, 2004, which is treated under 37 CFR 1.182.

The instant application was filed August 10, 2004 and a filing date was accorded. However, the Notice indicated that Figure 1B described in the specification appeared to have been omitted.

Petitioner asserts that Figure 1B were among the papers filed on August 10, 2004, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included ninety (90) sheets of drawings and bears a United States Patent and Trademark Office date-stamp of August 10, 2004. However, only eighty-nine (89) sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 1B was on sheet 2 of 90. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, the petition fee in the amount of $130.00 will be refunded to deposit account no. 10-0447.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on August 10, 2004 and Figure 1B submitted on petition December 6, 2004.

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

Adjustment date: 12/20/2004 CKHLOK
12/07/2004 EHAILE1 00000003 10915003
01 FC:1051 -130.00 DP

Repln. Ref: 12/20/2004 CKHLOK 0009350900
DAN:100447 Name/Number:10915003
FC: 9204 $130.00 CR

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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant	: Stephen A. Byrd	: DECISION ON REQUEST FOR
Patent Number	: 7661135	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,004	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FOLEY & LARDNER LLP
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SAN DIEGO, CA 92138-0278

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In re Application of	:	
SIMONEN, Ari-pekka	:	
Application No. 10/915,007	:	DECISION ON PETITION
Filed: August 10, 2004	:	TO WITHDRAW
Attorney Docket No. **004770.01766**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on August 04, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BANNER & WITCOFF, LTD.**
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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BOSTON MA 02111

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
FARMER et al.	:	DECISION ON APPLICATION
Application No. 10/915,030	:	FOR
Filed: August 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 19374-515	:	

This is a decision on the APPLICATION FOR ADJUSTMENT OF PATENT TERM INDICATED IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b) filed February 17, 2010. Applicants request correction of the patent term adjustment from one hundred fifty-two (152) days to five hundred forty-eight (548) days partly on the basis of the Office taking in excess of three years to issue the patent.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the Notice of Allowance, the request is **GRANTED TO THE EXTENT INDICATED**.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred ninety (190) days**. A copy of the updated PALM screen is enclosed.

On November 17, 2009, the Office mailed a 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 was 152 days. The instant application for patent term adjustment was timely filed.[2] Applicants state that a terminal disclaimer was filed.

Applicants dispute the 39 days of reduction, pursuant to 37 CFR 1.704(c)(8), for the filing of the Supplemental Reply on May 26, 2009. Applicants aver:

> Specifically, as stated in the May 26, 2009 Supplemental Reply, the claim amendments and terminal disclaimer filed on May 26, 2009 were responsive to a telephonic conversation held between the Examiner and Ingrid A. Beattie, wherein the Examiner indicated that such amendments would result in allowable subject matter. Applicants submit that because the May 26, 2009 Supplemental Reply carried into effect agreements reached between the Applicants and the Examiner, the May 26, 2009 Supplemental Reply qualifies as a supplemental reply expressly requested by the Examiner under 37 C.F.R. § 1.704(c)(8). Thus, Applicants submit that the May 26, 2009 Supplemental Reply should not be construed as a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application.

Petition, pp. 1-2.

Pursuant to 37 CFR 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in

[2] PALM records indicate that the issue fee was paid on February 17, 2010.

> § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

It is undisputed that after filing an initial reply on April 17, 2009, applicants filed a Supplemental Reply on May 26, 2009. Nevertheless, the application history shows that contemporaneous in time with the telephone conversation with the Examiner, applicants filed the Supplemental Reply consistent with the discussion that the amendments would result in allowable subject matter. Thereafter, a Notice of Allowance mailed on August 11, 2009, in response to the Supplemental Reply. Thus, the record supports a conclusion that the Examiner sought the submission of the Supplemental Reply. Accordingly, the period of reduction of 39 days is unwarranted and will be removed.

However, the record reveals that applicants should have been assessed a period of reduction under 37 CFR 1.704(c)(8) for the submission of the Request for Republication after the filing of the reply to the Restriction Requirement on February 12, 2007. Applicants admit that they submitted a Request for Republication by Express Mail on February 13, 2007, as evidenced by the date-in on the copy of Express Mail Label No. EV978767191US. The same Express Mail Label Number was placed on the original paper. The Transaction History record in PAIR incorrectly indicates the filing date of the Request for Republication as April 11, 2007. The Office will use the date of February 13, 2007, for the purpose of calculating patent term adjustment.

The record does not support a conclusion that the Examiner expressly requested the submission of the Request for Republication on February 13, 2007. Thus, it is a proper basis for reduction of patent term. In accordance 37 CFR 1.704(c)(8), the period of adjustment of the term of the patent will be reduced by one (1) day.

In view thereof, the patent term adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred ninety (190) days** (458 days of Office delay - 268 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is required.

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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Monday
Date: 6/28/2010

PALM INTRANET

Time: 11:42:54

PTA Calculations for Application: 10/915030			
Application Filing Date:	08/09/2004	PTO Delay (PTO):	458
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	306
Post-Issue Petitions:	0	Total PTA (days):	190
PTO Delay Adjustment:	38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	39		
95	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
86	11/17/2009	MAIL NOTICE OF ALLOWANCE			
85	11/13/2009	ISSUE REVISION COMPLETED			
84	11/13/2009	DOCUMENT VERIFICATION			
83	11/13/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
82	11/12/2009	NOTICE OF ALLOWABILITY			
79	10/07/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
78	10/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	10/08/2009	DATE FORWARDED TO EXAMINER			
76	10/07/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
75	10/08/2009	DISPOSAL FOR A RCE / CPA / R129			
74	10/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	10/07/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
72	09/24/2009	FINISHED INITIAL DATA CAPTURE			
71	09/14/2009	RESPONSE TO REASONS FOR ALLOWANCE			
70	09/11/2009	WORKFLOW - QUERY REQUEST - FINISH			
69	09/11/2009	TC RETURN TO PUBS			
68	09/11/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
67	09/10/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
		MAIL MISCELLANEOUS COMMUNICATION TO			

66	09/03/2009	APPLICANT			
65	08/24/2009	PUBS CASE REMAND TO TC			
64	08/31/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
63	08/27/2009	WORKFLOW - QUERY REQUEST - BEGIN			
62	08/14/2009	EXPORT TO INITIAL DATA CAPTURE			
61	08/11/2009	MAIL NOTICE OF ALLOWANCE			
60	07/22/2009	DOCUMENT VERIFICATION			
59	07/22/2009	ISSUE REVISION COMPLETED			
58	07/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	07/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
56	07/22/2009	NOTICE OF ALLOWABILITY			
55	05/26/2009	TERMINAL DISCLAIMER FILED		39	46
54	06/24/2009	DATE FORWARDED TO EXAMINER			
53	05/26/2009	SUPPLEMENTAL RESPONSE			
52	06/08/2009	PARALEGAL TD ACCEPTED			
51	05/26/2009	TERMINAL DISCLAIMER FILED			
50	04/17/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	04/17/2009	REFERENCE CAPTURE ON IDS			
48	04/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	05/13/2009	DATE FORWARDED TO EXAMINER			
46	04/17/2009	RESPONSE AFTER NON-FINAL ACTION		90	43
45	04/17/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	04/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	10/17/2008	MAIL NON-FINAL REJECTION			
42	10/14/2008	NON-FINAL REJECTION			
41	08/15/2008	DATE FORWARDED TO EXAMINER			
40	08/01/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	08/15/2008	DATE FORWARDED TO EXAMINER			
38	08/01/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		85	34
37	08/15/2008	DISPOSAL FOR A RCE / CPA / R129			
36	08/01/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

35	08/01/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	02/08/2008	MAIL FINAL REJECTION (PTOL - 326)			
33	02/06/2008	FINAL REJECTION			
32	02/05/2008	DATE FORWARDED TO EXAMINER			
31	10/30/2007	RESPONSE AFTER NON-FINAL ACTION		92	28
29	10/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	04/30/2007	MAIL NON-FINAL REJECTION			
27	04/26/2007	NON-FINAL REJECTION			
26	01/10/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	04/11/2007	MISCELLANEOUS INCOMING LETTER			
24	02/12/2007	PRELIMINARY AMENDMENT			
23	03/01/2007	DATE FORWARDED TO EXAMINER			
22	02/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
21	01/10/2007	MAIL RESTRICTION REQUIREMENT	458		-1
20	01/08/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
19	06/08/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	09/16/2004	PRELIMINARY AMENDMENT			
17	06/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
16.7	01/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/31/2005	APPLICATION RETURN FROM OIPE			
14	01/31/2005	APPLICATION RETURN TO OIPE			
13	01/31/2005	APPLICATION DISPATCHED FROM OIPE			
12	01/31/2005	APPLICATION IS NOW COMPLETE			
11	12/27/2004	ADDITIONAL APPLICATION FILING FEES			
10	12/27/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	10/27/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	09/23/2004	CLEARED BY L&R (LARS)			
5	09/22/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	09/22/2004	CASE CLASSIFIED BY OIPE			
3	09/16/2004	WORKFLOW INCOMING AMENDMENT IFW			

2	08/31/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

KENNETH L. MITCHELL
(WOODLING, KROST AND RUST)
9213 CHILLICOTHE ROAD
KIRTLAND, OH 44094

COPY MAILED

MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Takashi Tohara	:	DECISION GRANTING
Application No. 10/915,060	:	PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 8239	:	

This is a decision on the petition, filed December 31, 2004, which is being treated under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of August 10, 2004, rather than the presently accorded filing date of August 9, 2004.

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 10, 2004. The petition is accompanied by, inter alia, a copy of the Express Mail label, receipt no. EV374927055US. However, the "Date-In" on the copy of the Express Mail receipt was left blank. In further support, the petition is accompanied by a copy of the USPS Track/Confirm system information showing that the package in question was enroute to Cleveland, OH on August 10, 2004. The same Express Mail Number was found on the utility patent application transmittal located in the official file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on August 10, 2004. Accordingly, the instant application is entitled to a filing date of August 10, 2004, and has been so accorded.

The petition is granted. The $130.00 petition fee is unnecessary. Petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center AU 3682 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 271-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Tim Niggemeier	: DECISION ON REQUEST FOR
Patent Number	: 7613866	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

LAW OFFICES OF BRIAN S. STEINBERGER, P. A.

Registered Patent Attorneys
101 Brevard Avenue Cocoa, Florida 32922
Phone (321) 633-5080 Fax (321) 633-9322
Email brianss@cdi.net

Brian S. Steinberger (Member FL, PA Bars)*
Roland Dexter (Member TX, MA Bars)*
Joyce P. Morlin (Member FL, MI, IN, NY Bars)*
of Counsel
Frances L. Olmsted (Member NY Bar)*
* Registered Patent Attorney

AKIMA-DTSV 1 SEP 2005

DATE: June 21, 2005

FROM: BRIAN S. STEINBERGER/dg

TO: OIPE Customer Service
U. S. Patent and Trademark Office

RE: SN: 10/915,070
Atty Dkt.: UCF-464

Pages to Follow: 13 including cover

The information contained in this facsimile message is attorney-client privileged and/or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the above listed attorney by telephone. Thank you.

FAX'D TO NO. (703) 308-7751

Attorney Docket: UCF-464

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Qiong-Hua Wang
SN.: 10/915,070
Filed: 08/10/2004
For: Transflective liquid crystal display using separate tranmissive and reflective liquid crystal cells and materials with single cell gap
Examiner: Group:

Commissioner for Patents
U. S. Patent and Trademark Office
P O Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

I enclose the following papers:

1. PETITION TO WITHDRAW NOTICE OF ABANDONMENT UNDER 37 CFR 1.181
2. COPY OF THE NOTICE OF ABANDONMENT
3. COPY OF THE PETITION TO SUBMIT DECLARATION
4. DECLARATION
5. COPY OF CHECK #7513
6. PETITION BEING TRANSMITTED BY FACSIMILE TO OIPE CUSTOMER SERVICE

Please enter the above communication.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A.
PTO Registration No. 36,423
Client No.: 23717

CERTIFICATE OF MAILING BY FACSIMILE (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being submitted by facsimile directly to OIPE Customer Service (703) 308-7751 on the date shown below to: Commissioner for Patents, Patent and Trademark Office, P O Box 1450, Alexandria, VA 22313-1450.

6/21/05
Date

Brian S. Steinberger
(Name of Person Faxing Paper)

(Signature of Person Faxing Paper)

Attorney Docket: UCF-464

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Qiong-Hua Wang
SN.: 10/915,070
Filed: 08/10/2004
For: Transflective liquid crystal display using separate tranmissive and reflective liquid crystal cells and materials with single cell gap
Examiner: Group:

PETITION TO WITHDRAW NOTICE OF ABANDONMENT UNDER 37 CFR 1.181

Commissioner for Patents
U. S. Patent and Trademark Office
P O Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

Applicant respectfully request that the Notice of Abandonment dated 6/14/2005 be withdrawn as applicant did file the Declaration and check in the amount of $65.00 prior to receipt of the Office letter dated 10/04/2004.

A Petition to Enter Declaration, Declaration and check payable to the Commission of Patents for $65.00 for late oath or declaration Surcharge was filed on September 29, 2004, as evidenced by the attached copies of the Response, Petition, Certificate of Mailing and check.

Applicant encloses copies of Petition to enter declaration dated 09/29/2004 and Declaration;
Notice to File Missing Parts of Nonprovisional Application dated 10/04/2004;
And Notice of Abandonment Under 37 CFR 1.53 (f) dated 06/14/2005.

The petitioner states that the copies of all documents submitted with this petition are true copies of the correspondence mailed with the Certificate under 37 CFR 1.8(a) dated September 29, 2004.

Applicant believes no additional fees are required of applicant.

Please enter the above communication, reinstate the application and enter the Amendment Response and Arguments.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A
101 Brevard Ave.
Cocoa, FL 32931.
PTO Registration No. 36,423
Client no.: 23717

Atty. Dkt. No.: UCF-464

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
First Named Applicant: Wang
Application No.: 10/915,070
Filed: 08/10/2004
Examiner:
Group No.:
For: TRANSFLECTIVE LIQUID CRYSTAL DISPLAY USING SEPARATE TRAN MISSIVE AND REFLECTIVE LIQUID CRYSTAL CELLS AND MATERIALS WITH SINGLE CELL GAP

PETITION TO SUBMIT DECLARATION

Assistant Commissioner for Patents
U.S. Patent and Trademark Office
P O Box 1450
Alexandria, VA 22313-1450

MAILED: September 29 ,2004

Honorable Commissioner:

I enclose:

1. PETITION TO ENTER DECLARATION
2. DECLARATION
3. Check in the amount of $65.00.

Please enter the above correspondence.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A.
PTO Registration No. 36,423
101 Brevard Avenue
Cocoa, FL 32922
(321) 633-5080
Customer No.: 23717

CERTIFICATE OF MAILING (37 CFR 1.8A)

I HEREBY CERTIFY THAT THIS PAPER (ALONG WITH ANY PAPER REFERRED TO AS BEING ATTACHED OR ENCLOSED) IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON THE DATE SHOWN BELOW WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE: COMMISSIONER OF PATENTS AND TRADEMARKS, PATENT AND TRADEMARK OFFICE, P O BOX 1450, ALEXANDRIA, VA 22313-1450.

9/29/04
DATE

BRIAN S. STEINBERGER
(NAME OF PERSON MAILING PAPER)

(SIGNATURE OF PERSON MAILING PAPER)

Atty. Dkt. No.: UCF-464

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
First Named Applicant: Wang
Application No.: 10/915,070
Filed: 08/10/2004
Examiner:
Group No.:
For: TRANSFLECTIVE LIQUID CRYSTAL DISPLAY USING SEPARATE TRAN MISSIVE AND REFLECTIVE LIQUID CRYSTAL CELLS AND MATERIALS WITH SINGLE CELL GAP

PETITION TO SUBMIT DECLARATION

Assistant Commissioner for Patents
U.S. Patent and Trademark Office
P O Box 1450
Alexandria, VA 22313-1450

MAILED: September 29 ,2004

Honorable Commissioner:

1. Please enter the attached Declaration with signatures. The attached Declaration was inadvertently omitted from the original filing package on 08/10/2004 for the above referenced nonprovisional application.

2. A check in the amount of $65.00 is attached under Section 1.16(e).

Please enter the above communication.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A.
PTO Registration No. 36,423
101 Brevard Avenue
Cocoa, FL 32922
(321) 633-5080
Customer No.: 23717

DECLARATION AND POWER OF ATTORNEY

X Declaration submitted with initial filing

Attorney Docket No.: UCF-464
First Named Inventor: QIONG-HUA WANG, et al.

As a 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: the specification of which

X Attached hereto.
I hereby state that I have read and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information, which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, section 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

NONE

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

NONE

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and agents with full power of substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

BRIAN S. STEINBERGER	ROLAND A. DEXTER	JOYCE P. MORLIN
Registration Number 36,423	Registration Number 17,668	Registration Number 29,170

I do not know and do not believe that this invention was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application, that this invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months prior to this application.

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No. UCF-464

The Patent and Trademark Office is requested to direct all mail and telephone calls to:

Law Offices of Brian S. Steinberger
Registered Patent Attorneys
Brian S. Steinberger, Registration No. 36,423
Roland A. Dexter, Registration No. 17,668
Joyce P. Morlin, Registration No. 29,170
101 Brevard Avenue
Cocoa, Florida 32922
Client No.: 23717
(321) 633-5080
FAX: (321) 633-9322

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.

Name of Inventor: Qiong-Hun Wang
Citizenship: P.R. China
Residence address: Room 11, Unit 1, Building 20
East Yards, No.5, Section 2
North Jianshe Road
Chengdu, 610054

Signature

Date:

Name of Inventor: Shin-Tson Wu
Citizenship: USA
Residence address: 1388 Tall Maple Loop
Oviedo, FL 32765

Shin-Tson Wu
Signature

Date: 8/4/04

Name of Inventor: Qi Hong
Citizenship: P.R. China
Residence Address: 2527 North Alafaya Trail Apt.50
Orlando, FL 32826

Hong Qi
Signature

Date: 8/23/04

Name of Inventor: Yung-Hsun Wu
Citizenship: Taiwan
Residence: 2985 Grandeville Circle Apt. 309
Oviedo, FL 32765

Yunghsun Wu
Signature

Date: 8/4/04

LAW OFFICES OF BRIAN S. STEINBERGER, P.A. 12-96
101 BREVARD AVENUE
COCOA, FL 32922

BANK OF AMERICA
NATIONAL ASSOCIATION
GREEN COVE SPRINGS, FL 32043-8988
63-4/630

7513

9/29/2004

Pay to the Order of ASSISTANT COMMISSIONER FOR PATENTS $ **65.00

Sixty-Five and 00/100********** Dollars

ASSISTANT COMMISSIONER FOR PATENTS
U.S. PATENT AND TRADEMARK
OFFICE
WASHINGTON, DC 20231

BRIAN S. STEINBERGER

memo Declaration 10/915,070 Wang:UCF-464

⑈007513⑈ ⑆063000047⑆002834151124⑈

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
10/915,070	08/10/2004	Qiong-Hua Wang	UCF -464

RECEIVED
OCT - 7 2004
LAW OFFICES OF
BRIAN S. STEINBERGER, P.A.

CONFIRMATION NO. 9166

FORMALITIES LETTER

OC000000013996817

Law Offices of Brian S. Steinberger
101 Brevard Avenue
Cocoa, FL 32922

Date Mailed: 10/04/2004

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 signature of the following inventor(s) is missing from the oath or declaration:
  Qi Hong
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- A new oath or declaration, identifying this application number is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:
- does not identify the residence (e.g., city and either state or foreign country) of each inventor.
- does not identify the complete mailing or post office address of each inventor.
- does not identify the citizenship of each inventor.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART I - ATTORNEY/APPLICANT COPY

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
10/915,070	08/10/2004	Qiong-Hua Wang	UCF -464

CONFIRMATION NO. 9166

ABANDONMENT/TERMINATION LETTER

OC000000016274547

Law Offices of Brian S. Steinberger
101 Brevard Avenue
Cocoa, FL 32922

Date Mailed: 06/14/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 10/04/2004.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or

3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 07/26/2010

Applicant	: Wilson Kok	: DECISION ON REQUEST FOR
Patent Number	: 7657744	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

JUN 08 2007

OFFICE OF PETITIONS

In re Application of
FAHL, William E. et al.
Application No. 10/915,089
Filed: August 09, 2004
Attorney Docket No. **WARF-0237**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to WOODCOCK WASHBURN LLP has been revoked by the assignee of the patent application on December 14, 2006 and re-submitted March 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **QUARLES & BRADY LLP**
33 E. MAIN ST, SUITE 900
P.O. BOX 2113
MADISON WI 53701-2113

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JAN 29 2008

OFFICE OF PETITIONS

ON PETITION

Donald W. Meeker
924 East Ocean Front #E
Newport Beach CA 92661

In re Application of
Robert D. Evans et al.
Application No. 10/915,093
Filed: August 10, 2004
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed March 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 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) was obtained. Accordingly, the application became abandoned on December 1, 2005. The Notice of Abandonment was mailed April 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 3711 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of Data Management

David B. Ritchie
P.O. BOX 640640
San Jose CA 95164-0640

In re Application of	:	MAR - 5 2009
DIORIO, CHRISTOPHER J. et al.	:	
Application No. 10/915,107	:	**DECISION ON PETITION**
Filed: August 9, 2004	:	
Attorney Docket No. IMPJ-0107	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on May 5, 2008.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 13, 2007. The Notice of Abandonment, mailed on April 8, 2008 indicates, "The submitted fee of $300 is insufficient. A balance of $1400 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on March 7, 2008 authorizing that the Issue Fee be charged to Deposit Account No. 50-1698. On March 7, 2008 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at (703) 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David B. Ritchie
P.O. BOX 640640
San Jose CA 95164-0640

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of
Diorio, et al.
Application No. 10/915,107
Filed: August 9, 2004
Attorney Docket No. IMPJ-0107

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 14, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed January 13, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed April 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to the Office of Data Management for further processing.

/ALESIA M. BROWN/

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
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Tate Maloy	: DECISION ON REQUEST FOR
Patent Number	: 7658700	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,126	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

11 JUL 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERIC P. MIRABEL
35 TECHNOLOGY DRIVE
SUITE 100
WARREN NJ 07059

In re Application of SEUL et al.	:
Application No. 10/915,153	:
Filed: 09 August 2004	: DECISION ON PETITION
Attorney Docket No. ECDC-USC2	: UNDER 37 CFR 1.78(a)(3) and 1.78(a)(6)

This is a decision on the "Petition to accept an unintentionally delayed claim for the benefit of a prior-filed application", filed 11 November 2006, which has been treated as a petition under 37 CFR 1.78(a)(3) and (a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(ii) 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 satisfy item (1) above. The reference set forth in the amendment to the first sentence of the specification is not acceptable as drafted. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application must contain or be amended to contain a reference to each such prior-filed application indicating the relationship of the applications. Likewise, 37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed application.

Here, Applicant amended the first line of the specification as follows: "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. 60/047,472, filed May 23, 1997...".

Application no. 09/448,420 is a continuation of the PCT application PCT/US98/10719; the amendment improperly identifies the relationship,as application 09/448,420 is not an application filed under 35 U.S.C. 371. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2) and (a)(5) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a supplemental Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286.

Boris Milef
Office of PCT Legal
Office of the PCT Legal Administration

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

1 2 SEP 2008

ERIC P. MIRABEL
35 TECHNOLOGY DRIVE
SUITE 100
WARREN NJ 07059

In re Application of SEUL et al.
Application No. 10/915,153
Filed: 09 August 2004
Attorney Docket No. ECDC-USC2

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) and 1.78(a)(6)

This is a decision on the "Petition to accept an unintentionally delayed claim for the benefit of a prior-filed application" , filed 15 July 2008 which has been treated as a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed 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) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(ii) 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.

Applicant satisfied Item (2) above. With regard to Item (3), applicant's statement that "the entire delay between the date the claim was due under paragraph (a)(5)(ii) of Rule 1.78 and the date the claim was filed (herewith) was unintentional" is construed as meaning 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." If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

The renewed petition satisfies item (1) above. Applicant amended the first line of the specification as follows: "This application is a continuation of US application Serial No. 09/448,420, filed 11/22/1999, which is a continuation of PCT International Application No. PCT/US98/10719, filed May 22, 1998, which claims priority to U.S. Provisional Application No. 60/047,472, filed May 23, 1997...". The reference set forth in the amendment to the first sentence of the specification filed on 15 July 2008 is acceptable.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1639 for appropriate action on the amendment submitted 15 July 2008, including consideration by the examiner of the claim for benefit of the prior-filed application.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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
10/915,153	08/09/2004	1639	624	ECDC-USC2	41	1

CONFIRMATION NO. 8978

CORRECTED FILING RECEIPT

OC000000032012418

36038
ERIC P. MIRABEL
35 TECHNOLOGY DRIVE
SUITE 100
WARREN, NJ 07059

Date Mailed: 09/10/2008

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)

Michael Seul, Fanwood, NJ;
Richard H. Ebright, North Brunswick, 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
Cynthia Moore--46086

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: 10/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/915,153**

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).

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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Eric Mirabel
Bioarrays
35 Technology Drive
Warren, NJ 07059

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Randolph S. Porubcan :
Application No. 10/915,154 : DECISION GRANTING PETITION
Filed: August 9, 2004 :
Attorney Docket No. PRB-2 :

This is a decision on the petition filed November 17, 2004, to accord the above-identified application a filing date of August 9, 2004.

On August 9, 2004, the application was deposited.

On November 4, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present, but appeared to be necessary. The Notice also stated that a filing date had not been accorded and the filing date would be the date of receipt of the drawings. The instant petition was filed responsively on November 17, 2004.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claim 12 is a method claim and Claims 24 and 27 are process claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, the petition is **granted.**

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 9, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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Snell & Wilmer L.L.P.
One Arizona Center
400 East Van Buren
Phoenix AZ 85004-2202

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In re Patent No. 6,956,785 :

Issue Date: October 18, 2005 :

Application No. 10/915,155 : ON PETITION

Filed: August 9, 2004 :

Attorney Docket No. **37829.0917**

This is a decision on the petition filed November 8, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **dismissed**.

A completed "Certificate of Correction" expressly specifying the desired correction did not accompany the request. Petitioner should complete the form PTO/SB/44, which is enclosed, and return it with any renewed request filed.

The renewed request may directed to the following:

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

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/44

[1] See *Official Gazette* of June 22, 2004.

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44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Application of	:	
Yu et al.	:	
Application No.: 10/915168	:	ON PETITION
Filing or 371(c) Date: 08/09/2004	:	
Attorney Docket Number:	:	
070050.2864	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed February 8, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on March 9, 2007. A Notice of Abandonment was mailed October 16, 2007.

Applicant files the present petition and response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement; (2) the petition; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 1631 for processing of the response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

In re Application of	:	
Bret K. Street, et al.	:	
Application No.: 10/915,180	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No.: M4065.1303/P1303	:	

This is a decision on the petition, filed February 1, 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 December 14, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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P O BOX 1132
NOVI MI 48376

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In re Application of	:	
Robert S. Allen	:	
Application No. 10/915,197	:	ON PETITION
Filed: 9 August, 2004	:	
Attorney Docket No. RAII03	:	

This is a decision in reference to the petition under 37 CFR 1.181 filed on 9 March, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on 15 September, 2005, for failure to timely file a response to non-final Office action mailed on 14 June, 2005, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 January, 2005.

Petitioner asserts the holding of abandonment should be withdrawn because the Office action mailed on 14 June, 2005, was never received because it was sent to an incorrect correspondence address.

Petitioners asserts that the Office action mailed on 14 June, 2005, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action 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.[1] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

Petitioner asserts that the USPTO incorrectly mailed the Office action mailed on 14 June, 2005, to: Robert S. Allen, P.O. Box 4464, Key West, FL 33401. Petitioner asserts the correct address was Robert S. Allen, P.O. Box **4964**, Key West, FL 33401 (emphasis added). Petitioner states that a change of correspondence address was filed on 23 September, 2004, listing the above-identified address.

A review of Office records reveals that the Office action mailed on 15 June, 2005, was returned as undeliverable on 15 August, 2005.

The change of correspondence address filed on 23 September, 2004, has been located in Office records. However, the address is handwritten, and, upon close review, the paper appears to be inscribed "PO Box 4464" rather than P.O. Box 4964. As such, the showing of record is that the Office action mailed on 15 July, 2005, was in fact mailed to the correspondence address indicated by petitioners.

A review of the file indicates, therefore, that the USPTO properly mailed the Office action to the address provided by petitioners, but that the address provided by petitioners was not valid because the numbers were not legible. While the Office attempts to timely notify applicants of deficiencies in their responses, it is under no obligation to do so.[2] Rather, it is petitioner's obligation to provide legible papers, and a proper correspondence address, to the Office.

MPEP 608.01 provides, in pertient part:

> All papers which are to become a part of the permanent records of the U.S. Patent and Trademark Office must be legibly written either by a typewriter or mechanical

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

> printer in permanent dark ink or its equivalent in portrait orientation on flexible, strong, smooth, nonshiny, durable, and white paper.

In essence, petitioner assumed the risk that the Office would not properly enter petitioner's correspondence address, and would not be able to mail correspondence to the proper address, when petitioner filed the handwritten change of correspondence address. As such, the filing of such a paper is an avoidable mistake. Withdrawal of the holding of abandonment is not warranted when an applicant makes an avoidable mistake.

Failure to provide a proper correspondence address is not grounds for withdrawal of the holding of abandonment. As such, the showing is that there was no irregularity in the mailing of the Office action mailed on either 14 June, 2005. Rather, petitioners failed to provide the Office with a current correspondence address. As such, the failure to receive the Office action is the fault of petitioner and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

If petitioner has evidence that he attempted to provide a legible, proper change correspondence address to the Office prior to the mailing of the Office action mailed on 14 June, 2005, petitioner may wish to consider submitting said evidence with a renewed petition.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[3]

Alternatively, petitioner may wish to consider filing a petition under 37 CFR 1.137(b), accompanied by the proper 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 FAX: (571)273-8300
Attn: Office of Petitions

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[3] 37 CFR 1.181(f).

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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OFFICE OF PETITIONS

In re Patent of Starr et al.	:	
Patent No. 7,046,048	:	
Issue Date: May 16, 2006	:	Decision on Petition
Application No. 10/915,201	:	
Filing Date: August 9, 2004	:	
Attorney Docket No. 174/441 CONT	:	

This is a decision on the petition under 37 CFR 1.182, filed November 22, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

In re Application of Seneviratne et al. Application No. 10/915,220 Filed: August 10, 2004 Title: FUNCTIONAL MATERIAL FOR MICRO-MECHANICAL SYSTEMS	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed March 9, 2007, to withdraw the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED.**

A non-final Office action was mailed on September 12, 2006, setting a three-month period of response. The application became abandoned on December 13, 2006 by operation of law.

Petitioner states that the non-final Office action was never received by applicant's representative and attests to the fact that a search of the electronic files and docket records indicates that the non-final Office action was not received. The petition is accompanied a copy of the docket records where the non-received action would have been entered had it been received.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the non-final Office action was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Petitioner has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Further, petitioner has

provided a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

Since petitioner has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the non-final Office action. The shortened period for response set therein will be reset to expire three months from the date the Office action is remailed.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Robert Oberleitner, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OFFICE OF PETITIONS

Applicant: Xavier, et al.
Appl. No.: 10/915,224
Filing Date: August 10, 2004
Title: MAKING A CATHODE STRUCTURE FOR OLEDS
Attorney Docket No.: 87015RLO
Pub. No.: US 2006/0035015 A1
Pub. Date: February 16, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on April 18, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error in paragraph [0032] wherein in the chemical formula "Ar^2" is misprinted as "Ar^{32}".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor wherein "Ar^2" is misprinted as "Ar^{32}" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification or claims, as the formula is directly above the descriptions, which correctly states "Ar^2". The mistake is a minor typographical, which does not affect the understanding of the specification and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the

[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).

patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Guangyong Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7592716	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,230	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: J. Keith Joung	: DECISION ON REQUEST FOR
Patent Number	: 7297491	: RECALCULATION of PATENT
Issue Date	: 11/20/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,233	: OF WYETH
Filed	: 08/10/2004	:
		:

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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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Schneider et al.	:	
Application No. 10/915,239	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 9636Q	:	

This is a decision on the petition filed August 12, 2005, requesting that the above-identified application be accorded a filing date of August 10, 2004, rather than the presently accorded date of August 9, 2004. The petition is properly treated as a petition under 37 CFR 1.10.

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 10, 2004, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. EV 370359120 US as having a receipt date of August 10, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on August 10, 2004 at 4:30 p.m. at the Cincinnati, OH USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on August 10, 2004. Accordingly, the instant application is entitled to a filing date of August 10, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10 does not require a petition fee. Accordingly, the $400.00 petition fee collected will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of	:	
Zhigiang Zhang et al	:	
Application No. 10/915,251	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. AF207/2004.tm8nano	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 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 1797 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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In re Application of	:	
Peter R. Winston	:	
Application No. 10/915,280	:	DECISION ON PETITION
Filed: August 10, 2004	:	TO WITHDRAW
Attorney Docket No. 176/2	:	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 December 13, 2006.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to BRUCE E. LILLING has been revoked by the assignee of the patent application on March 6, 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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	10/915,280
Filing Date	08-10-2004
First Named Inventor	Peter Winston
Art Unit	3641
Examiner Name	ELDRED, JOHN W
Attorney Docket Number	176/2

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: at the request of the applicant.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	Peter Winston				
Address	8300 Tonnelle Ave.				
City	North Bergen	State	NJ	Zip	07047
Country	USA				
Telephone		Email			

Signature	/Sean Liam Kelleher/		
Name	Sean Liam Kelleher	Registration No.	54212
Date	13 December 2006	Telephone No.	914-684-0600x5

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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/915,280	08/10/2004	Peter R. Winston	176/2

CONFIRMATION NO. 7807

OC000000023157191

24101
BRUCE E. LILLING
LILLING & LILLING PLLC
P.O. BOX 560
GOLDEN BRIDGE, NY 10526

Date Mailed: 03/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/13/2006.

- 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.

FILE COPY

FILE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/915,280	08/10/2004	Peter R. Winston	176/2

CONFIRMATION NO. 7807

OC000000023157272

49443
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

Date Mailed: 03/29/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

FILE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

COPY MAILED

JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of

MORENO, Kenneth M. et al.
Application No. 10/915,288
Filed: August 10, 2004
Attorney Docket No. **KMM 1018285**

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 30, 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 Brooks Gifford on behalf of all attorneys of record who are associated with customer No. 27111. 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 Kenneth M. Moreno at the address indicated below.

There is an outstanding Office action mailed February 06, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KENNETH MARIO MORENO**
4928 EAST WESTCHESTER DR.
CHANDLER, AZ 85249

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

The Law Office of John C. Scott, LLC
c/o PortfolioIP
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant	: Jose J. Araya Vargas	: DECISION ON REQUEST FOR
Patent Number	: 7630723	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

COPY MAILED

JAN 2 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Lai, Johnny Bong Wing	:	DECISION ON PETITION
Application No. 10/915,297	:	TO MAKE SPECIAL
Filed: August 10, 2004	:	37 CFR 1.102(D)
Attorney Docket No. BMHK101US	:	

This is a decision on the petition under 37 CFR §1.102(d), filed December 21, 2005, 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 requirements set forth above for special status because it lacks (B) and (C). Applicant should rephrase the instant petition to include the proper language as stated above. Specifically, the statements, "some of the claims are *unquestionably* infringed," and "a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art," should be included.

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 Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3714 for action in its regular turn.

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

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Lai, Johnny Bong Wing	:	
Application No. 10/915,297	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. BMHK/101/US	:	

This is a decision on the renewed petition under 37 CFR §1.102(d), filed March 6, 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.

Petitioner submitted an additional petition fee with the instant petition. However, since the fee was previously submitted on December 21, 2005, the duplicate $130.00 fee will be credited to petitioner's deposit account as authorized.

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 3711 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 21 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANDREA SMALL
PATENT DEPARTMENT
BOEHRINGER INGELHEIM CORP
900 RIDGEBURY ROAD
P.O. BOX 368
RIDGEFIELD CT 06877

In re Application of
Bechtold-Peters et al
Serial No: 10/915,298
Filed : 10 August 2004
Attorney Dkt No.: 1/1542

Decision on Petition

This decision is in response to the petition under 37 CFR 1.181 filed 12 January 2006, to regarding a requirement under 1.182 et al (sequence rules). The delay in acting up this petition is regretted.

BACKGROUND AND DISCUSSION

This application contains amino acid sequences on page 15 of the specification. The amino acid sequences are three in length and listed in a series, separate by commas.

This request has been made in error. Applicants are not required to submit a sequence listing for tri-mer amino acid sequences. Only amino acid sequences four or greater in length are required to comply with the sequence requirements.

DECISION

The petition to withdraw **GRANTED**. The letter mailed on November 9, 2005 is hereby vacated and no response to that letter is required by applicants.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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MAR 16 2006

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Alan David Mogg	:	
Serial No.: 10/915,322	:	DECISION ON PETITION
Filed: August 11, 2004	:	
For: Catheter Clamp	:	

This is in response to the petition applicant filed on February 21, 2006 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick R. Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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P.O. BOX 1450
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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APR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Mogg	:	
Application No. 10/915,322	:	DECISION ON PETITION
Filed: August 11, 2004	:	
Docket No.: A36368-PCT-USA	:	
(072819.01	:	

This is a decision on the petition under 37 CFR 1.181, filed February 14, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned January 4, 2006 for failure to timely submit a properly reply to the non-final Office action mailed October 3, 2005. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioner attributes the holding of abandonment to the Office's failure to mail the non-final Office action to the correct correspondence address.

Petitioner's arguments have been carefully considered and found convincing. Further, the correspondence address for the above-identified application was changed in the declaration/power of attorney submitted November 24, 2004. This change, however, was not entered into the record and as a result, the non-final Office action was mailed to the incorrect correspondence address. This oversight has since been corrected.

Accordingly, the holding of abandonment is hereby **VACATED**.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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)
6,969,800	2005-11-29	10/915,324	2004-08-11	T-1876

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	/james h walters/	Date (YYYY-MM-DD)	2010-03-28
Name	James H. Walters	Registration Number	35731

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
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In re Patent No. 6969800
Issue Date: November 29,2005
Application No. 10915324
Filed: August 11,2004
Attorney Docket No. 3093/62

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 28,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MUNCY, GEISSLER, OLDS & LOWE, PLLC
P.O. BOX 1364
FAIRFAX, VA 22038-1

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JUN 18 2008
OFFICE OF PETITIONS

In re Patent No. 7,087,461	:	
Issue Date: August 8, 2006	:	
Application No. 10/915,326	:	DECISION ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. 5382/0139PUS1	:	

This is a decision on the petition under 37 CFR 1.182, filed March 14, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Office of Data Management for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEFFREY J KING
GRAYBEAL JACKSON HALEY LLP
SUITE 350
155 - 108TH AVENUE NE
BELLEVUE WA 98004-5901

COPY MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Schmidt, et al.	:	
Application No. 10/915,334	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. 2677-000007/US	:	

This is a decision on the "PETITION UNDER 37 C.F.R 1.182 TO OBTAIN DATE RECEIVED AND/OR APPLICATION NUMBER FOR PATENT APPLICATION", filed April 23, 2009.

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 1.182". This is **not** a final agency decision within the meaning of 5 USC 704.

Office records indicate that the above application is currently abandoned for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed January 12, 2005. This Notice set an extendable period for reply of two (2) months for applicants to submit an abstract, a copy of the Sequence Listing in computer readable form, and additional claims fees. No reply having been received, the application became abandoned on March 12, 2005. The Office mailed a Notice of Abandonment on April 26, 2005.

Petitioner John Castellano from Harness, Dickey, & Pierce PLC has filed the instant petition on April 23, 2009. However, the applicant name and title of the invention supplied by petitioner do not match those for application No. 10/915,334.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Harness Dickey & Pierce PLC
Po Box 8910
Reston, Virginia 20195

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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JEFFREY J KING
GRAYBEAL JACKSON HALEY LLP
SUITE 350
155 - 108TH AVENUE NE
BELLEVUE WA 98004-5901

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SEP 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Schmidt, et al.	:	
Application No. 10/915,334	:	ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. 2677-000007/US	:	

This is a decision on the "PETITION UNDER 37 C.F.R 1.182 TO OBTAIN DATE RECEIVED AND/OR APPLICATION NUMBER FOR PATENT APPLICATION", filed April 23, 2009. A decision on the petition was previously mailed on May 11, 2009.

The decision mailed May 11, 2009 is **VACATED**.

The petition is **GRANTED**.

The Office has reviewed the papers filed on April 23, 2009, and it has been determined that petitioner is entitled to a filing date of August 11, 2004.

The application is being forwarded to the Office of Patent Application Processing for further processing using the papers supplied on April 23, 2009, with a filing date of August 11, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Harness Dickey & Pierce PLC
Po Box 8910
Reston, Virginia 20195

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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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 04/20/2010

Applicant	: John G. Davis	: DECISION ON REQUEST FOR
Patent Number	: 7645410	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

DATE: 8/28/07 APPLICATION NUMBER: 10/915,375

DOC CODE: Pet.Dec.TC. DOC DATE: 9/5/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
BRUCE STEPHEN BORDEN	:	DECISION ON PETITION
Application No. 10/915,375	:	
Filed: 08/11/2004	:	
Attorney Docket No. 2302.0010001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for the delay.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed June 29, 2006, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on September 30, 2006. On January 16, 2007, 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). Petitioner submitted the required reply, paid the petition fee, and made an adequate statement of unintentional delay. Accordingly, the petition is granted.

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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). 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.

This matter is being referred to Technology Center Art Unit 2111.

Telephone inquiries specific to 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Hunton & Williams, LLP
Intellectual Property Department
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/08/08

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10915384 Patent No.: 7349699 B1

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

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 /Lester Kincaid/ Art Unit 2617

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Tetsushi Koide, et al. :
Application No. 10/915,430 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No.: 257162US2 :

This is a decision on the petition, filed May 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2824 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/30/2010

Applicant	: Dmitri Jerdev	: DECISION ON REQUEST FOR
Patent Number	: 7609302	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **914** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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WANG KING -YUAN
P.O. Box 487
Changhua City 500 R.O.C. TW TAIWAN

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OFFICE OF PETITIONS

In re Application of
Sun-Nan LO
Application No. 10/915,482
Filed: August 11, 2004
Attorney Docket No. D-9-22

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 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 reply in a timely manner to the non-final action mailed May 4, 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 August 5, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1) and (3).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(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.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the oath or declaration is not signed or if the applicant has not given the one signing a power of attorney. The oath or declaration filed August 11, 2004 is not a proper declaration and power of attorney. Furthermore, the paper filed August 11, 2004 entitled "Assignment of Rights Over Invention" is not a recordable assignment. See MPEP 302.

Therefore, as the petition herein fails to disclose that petitioner herein (Wang King-Yuan) was ever given a power of attorney to act on behalf of inventor Sun-Nan Lo or that petitioner Wang King-Yuan is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

cc: Wang King-Yuan
P.O. Box 215 TAICHUNG CITY 40099
TAIWAN R.O.C.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Ming-Chieh Hsu :
Application No. 10/915488 :
Filing or 371(c) Date: 08/11/2004 :
Attorney Docket Number: :
HSUM3007/JCC/JS : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment", filed March 8, 2007. The petition is properly treated under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 12, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on August 13, 2006. A Notice of Abandonment was mailed November 13, 2006.

Applicant files the present petition and asserts that the Office action was never received because the attorney of record and correspondence were changed by the inventor in a Power of Attorney filed on March 28, 2006, despite the inventor having assigned his rights to the above-identified application on November 25, 2004, by virtue of an assignment by the inventor recorded at reel/frame 017371/0405, recorded in this Office on March 28, 2006.

A review of the assignment record recorded at reel/frame 017371/0405 reveals that the inventor assigned "the full and exclusive right, title and interest" in the above-identified application on November 25, 2004, to Suefar Co., Ltd[1]. Thereafter, Suefar Co., Ltd, assigned their rights in the above-identified application to Petitioner herein on January 13, 2005 by virtue of an assignment recorded at reel/frame 016211/0239 on January 28, 2005.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

[1] In 37 CFR 3.1, assignment of patent rights is defined as "a transfer by a party of all or part of its right, title and interest in a patent or patent application...." An assignment of a patent, or patent application, is the transfer to another of a party's entire ownership interest or a percentage of that party's ownership interest in the patent or application.

No petition fee has been charged and none is due.

The Power of Attorney and Correspondence Address of Record have been corrected to reflect the Revocation of Power of Attorney and Appointment of new Attorney, filed January 28, 2005.

The application will be referred to Technology Center Art Unit 3721 for re-mailing of the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Hammers et al.	:	
Application Number: 10/915,490	:	
Filing or 371(c) Date: 08/11/2004	:	ON PETITION
Attorney Docket Number: 056159-5002-US01	:	

This is a decision on the Petition Under 37 C.F.R. § 1.182, filed August 17, 2007, to,withdraw a previously-filed Terminal Disclaimer.

The Petition is **granted**.

Applicant files the instant petition and requests withdrawal of the terminal disclaimer ("TD"), filed February 12, 2007. Applicant asserts that the TD mistakenly lists U.S. Patent No. 5,759,808 as one of two patents over which the above-identified application is disclaimed.

As the Examiner has agreed, the petition is granted.

The petition fee for a petition under 37 CFR 1.182 increased to $400 effective December 8, 2004. Applicant's deposit account has been charged an additional $270.00 for the petition as authorized for the petition fee.

The application is being referred to Technology Center Art Unit 1644 for withdrawal of the Terminal Disclaimer, filed February 12, 2007, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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OFFICE OF PETITIONS

In re Application of Metcalf, et al. Application No. 10/915,498 Filed: August 10, 2004 Attorney Docket No. 283-0003US-2 For: SYSTEM FOR VENDING PRODUCTS AND SERVICES USING AN IDENTIFICATION CARD AND ASSOCIATED METHODS	: : : : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed November 10, 2004 , requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed November 4, 2004.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on August 10, 2004. On November 4, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 73 and 74 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition on November 10, 2004. Petitioners request that pages 73 and 74 be accorded a filing date of August 10, 2004 on the basis that the entire specification, including allegedly missing pages 73 and 74, was received in the Patent and Trademark Office (PTO) on August 10, 2004.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 10, 2004 as the date of receipt. The postcard lists that the filing included, *inter alia*, 109 pages of specification. A review of the application file reveals that there are 107 pages present. Pages 73 and 74 are missing.

The return postcard constitutes *prima facie* evidence that the entire 109 page specification, including missing pages 73 and 74, was filed on August 10, 2004. MPEP 503. Accordingly, the

request is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 10, 2004**, using the copy of pages 73 and 74 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

FLIESLER MYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

In re Application of	:	
Rodney McCauley et al	:	
Application No. 10/915,505	:	ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. BEAS-01553US1	:	

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 8, 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 2163 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

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OFFICE OF PETITIONS

In re Application of	:	
Rodney McCauley, et al.	:	
Application No. 10/915,506	:	DECISION GRANTING PETITION
Filed: August 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BEAS-01555US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 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 January 8, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

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.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Jacobs Patent Office
P.O. Box 390438
Cambridge MA 02139

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OFFICE OF PETITIONS

In re Application of	:	
George W. Hodgetts	:	
Application No. 10/915512	:	
Filing or 371(c) Date: 08/09/2004	:	ON PETITION
Attorney Docket Number:	:	
HODG-102 CIP	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 1, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 2, 2006. A Notice of Abandonment was mailed November 20, 2006.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay[1]. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 3711 for processing of the Amendment filed with the petition in due course.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

[1] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

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.

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available, at 1-800-786-9199, for assistance in prosecuting the patent application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: GEORGE W. HODGETTS
18 MEADOW AVENUE
WESTERLY, RI 02891

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 05/05/2010

Applicant	: Robert Draper	: DECISION ON REQUEST FOR
Patent Number	: 7651801	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 27 2007

REED SMITH LLP
Suite 1400
3110 Fairview park Drive
Falls Church, VA 22042

In re Application of:
Junichiro SHIMIZU et al.
Application No. 10/915,534
Filed: August 11, 2004
For: OPTICAL MODULE DEVICE

DECISION VACATING
LETTER MAILED
January 17, 2007

The purpose of this communication is to inform you that the letter issued by this office on January 17, 2007 which withdrew the above identified application from issue pursuant to 37 CFR 1.313 is hereby vacated.

On the same day the above letter was mailed, the applicant submitted a corrected declaration. The Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed December 19, 2005 are hereby reinstated.

The issue and publication fees were timely paid on February 1, 2006. Accordingly, the above-identified application is being forwarded to the Publications Branch for processing the application into a patent.

Telephone inquires should be directed to Sue Purvis, Supervisory Patent Examiner of Art Unit 2826.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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TYSONS CORNER VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
SAKAGAMI et al.	:	
Application No. 10/915,535	:	DECISION ON PETITION
Filed: 08/11/2004	:	
Attorney Docket No. 59406.00022	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 13, 2008, 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 nonfinal Office action of June 28, 2007, which set a three-month shortened statutory period for reply. A reply was due on or before September 28, 2007.

Petitioner states that a reply was timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, acknowledging receipt of, *inter alia,* an amendment in the U.S. Patent and Trademark Office (USPTO) on September 14, 2007. A copy of the previously submitted reply accompanies the petition.

The amendment, which the USPTO acknowledged as received on September 14, 2007, is not of record in the application file and has not been located to date. However, MPEP 503 states "[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 was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The Office will accept the copy of the reply supplied with the petition in place of the reply shown to have been received by the USPTO on September 14, 2007.

This application is being referred to Technology Center AU 2618 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquires regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Office of Patent Publication

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

In re Application of	:	
SHIUE, CHIH-CHENG	:	
Application No. 10/915,546	:	**DECISION ON PETITION**
Filed: August 11, 2004	:	
Attorney Docket No. BHT-3112-169	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181, received in the United States Patent & Trademark (USPTO) via facsimile transmission on July 17, 2006.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 16, 2006. The Notice of Abandonment, mailed on June 26, 2006 indicates, "The submitted fee of $0 is insufficient. A balance of $1,000 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal on June 12, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 50-1874. On June 12, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fees.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 23 2006

Director's Office
Office of Patent Publication

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

In re Application of	:	
SHIUE, CHIH-CHENG	:	
Application No. 10/915,546	:	**DECISION ON PETITION**
Filed: August 11, 2004	:	
Attorney Docket No. BHT-3112-169	:	

This is a response to the Request For Reconsideration On The Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181 (Reconsideration), received in the United States Patent & Trademark Office (USPTO) on August 11, 2006. Applicant request reconsideration of the dismissal of the Petition To Withdraw Holding Of Abandonment (Petition) received in the USPTO on July 17, 2006.

The request is **DENIED.**

The undersigned decision to dismiss the Petition received July 17, 2006 was based on the applicant's failure to have sufficient funds in their Deposit Account when the Office of Finance attempted to charge the required fees on June 12, 2006 and non-compliance with 37 CFR 1.25.

The Reconsideration argues that at all times between the submission of the authorization on June 12, 2006, and the mailing of the Notice of Abandonment on June 26, 2006, there were adequate funds in Deposit Account 50-1874. In support of this assertion, copies of pages 7 and 8 of the June 2006 monthly statement are attached hereto.

The report provided by the Revenue Accounting Management Operator indicates that when the attempt was made to the charge the fees, the Balance Amount was .00 in Deposit Account No. 50-1874.

Any discrepancies in the Monthly Statement and the afore-mentioned report should be addressed to the Office Of Finance and / or addressed in the Petition for Revival under 37 CFR 1.137.

The holding of holding cannot be withdrawn at this time.

As advised in the Decision On Petition mailed July 25, 2006, the applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

Thomas E Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of	:	
Chih-Cheng Shiue	:	
Application No. 10/915,546	:	DECISION ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. BHT-3112-169	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 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 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 16, 2006. Accordingly, the date of abandonment of this application is June 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAR 0 6 2009

GUNN & LEE, P.C.
700 N. ST. MARY'S STREET SUITE 1500
SAN ANTONIO, TX 78208

In re Application of:
Theresa M Siler-Khodr
Serial No.: 10/915,553
Filed: August 10, 2004
Attorney Docket No.: P-7345.4

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed on February 9, 2009, which requests withdrawal of finality instituted in the Office action mailed June 20, 2008.

BACKGROUND

This Background portion is focused on the outstanding rejection placed under 35 USC 102(b) which is pertinent to this Petition.

On July 11, 2007 the examiner mailed a non-final Office action setting a three month shortened statutory period for reply. In this final Office action, claims 1-69 were pending, claims 6-69 were withdrawn from consideration on the merits, and claims 1-5 were examined. *Inter alia*, the examiner rejected claims 1-5 under 35 USC 102(b) as being anticipated by Millar, GB 2,237,571 as evidenced by W.E. Hill (2000).

Specifically pertaining to said rejection rendered under 35 USC 102(b), the examiner indicated,:

> The '571 Patent teaches analogs of gonadotrophin releasing hormone (GnRH) having the sequence of SEQ ID NO:2 (sequence Glu-His-Trp-Ser-A-B-C-D-Pro-E, wherein A is His; B is D-Arg, D-Lys, D-Trp, D-Ala, D-Nal or D-(tBu)Ser; C is Trp; D is Tyr; and E is Gly-NH2, D-Ala-NH2, N-Etylamide [*sic*, Ethylamide] or azaGly (see Patent abstract and page 6, paragraph 3). The reference teaches the decapeptide sequence of Chicken II GnRH (pg. 1). (see paragraph bridging pages 5 and 6).

In response to the non-final Office action of July 11, 2007, applicant submitted remarks, arguments and amendments to claims 1-5 on August 30, 2007.

The examiner then mailed a final Office action on October 25, 2007 setting a three month shortened statutory period for reply. In this final Office action, claims 1-69 were pending, claims 6-69 were withdrawn from consideration on the merits, and claims 1-5 were examined. *Inter alia*, the examiner rejected claims 1-5 under 35 USC 102(b) as being anticipated by Millar, GB 2,237,571 as evidenced by W.E. Hill (2000). The examiner indicated that this rejection was repeated "...for the reasons of record in the Office Action filed July 11, 2007" (see page 3 of said final Office action). The examiner additionally stated, as pointed out by applicant in this Petition; "On lines 6-7, of page 1 of the '571 Patent, Millar discloses the identical analog decapeptide sequence of instant claim 1" (p. 4, final Office action of October 25, 2007).

In response to the final Office action of October 25, 2007 applicant filed a Request for Continuing Examination (RCE) on April 15, 2008 along with the appropriate fees. Applicant did not submit any claim amendments upon submission of said RCE.

The examiner mailed a final Office action on June 20, 2008 setting a three month shortened statutory period for reply. In this Office action, claims 1-66 were pending, claims 6-66 were withdrawn from examination on the merits, and claims 1-5 were examined. *Inter alia*, in this final Office action, the examiner maintained the rejection of claims 1-5 under 35 USC 102(b) as being anticipated by Millar, GB 2,237,571 as evidenced by W.E. Hill (2000); "...for the reasons of record in the Office Action filed July 11, 2007." Additionally, the examiner indicated:

> Contrary to Applicant's arguments, the mere fact that Millar et al., disclose chimeric peptides in no way limits the disclosure to chimeric peptides. As stated in MPEP §2121.01 II a reference serves as prior art for all that it teaches. Beckman Instruments v. LKB Produkter AB, 892 F.2d 1547, 1551, 13 USPQ2d 1301, 1304 (Fed. Cir. 1989). Specifically, in the formula bridging pages 2-3, the Millar Patent discloses an analog of a naturally occurring vertebrate gonadotrophin releasing hormone of the formula;
> pGlu-His-Trp-Ser-A-B-C-D-Pro-E
> wherein:
> A is His or Tyr;
> B is D-Arg, D-Lys, D-Trp, D-Ala, D-Tyr, D-Nal(2), or D-tert-but-Ser
> C is Leu or Trp;
> D is Arg, Gin, Tyr or Leu; and
> E is Gly-NH2, D-Ala.NH2, Net or aza-Gly.
> ***Section 2131.02 of the MPEP states, "A generic chemical formula will anticipate a claimed species covered by the formula when the species can be "at once envisaged" from the formula. If one of ordinary skill in the art is able to "at once envisage" the specific compound within the generic chemical formula, the compound is anticipated. In re Petering, 301 F.2d 676, 133 USPQ 275 (CCPA 1962). Thus, Examiner maintains that the '571 Patent fully anticipates the invention of the instant claims.*** (pp. 4-5 final Office action of June 20, 2008, emphasis added).

In response to the final Office action of June 20, 2008, applicant filed an amendment after final Office action on December 17, 2008 which included remarks, arguments and proposed amendments to claim 1. Included in applicant's remarks was a traversal of the finality of the Office action instituted on June 20, 2008 and a request by the applicant to remove said finality. Concurrently, with this reply, applicant submitted a Declaration under 37 CFR § 1.132 by Gabriel S. Khodr, MD as well as a Notice of Appeal.

The examiner mailed an Advisory Action on December 31, 2008 acknowledging applicant's filing of a Notice of Appeal and additionally indicating that the proposed amendments as

submitted by Applicants on December 17, 2008 would not be entered because they raised new issues that would require a further consideration and/or search. The examiner further indicated, by checking box 9 on the Advisory Action form, that the affidavit would not be entered because the affidavit failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. As an addendum to these issues, the examiner indicated:

> Continuation of 3. NOTE: As amended claims recite a Chicken gonadontropin releasing hormone analog and recite said analog is capable of binding with high affinity to a receptor and is resistant to degradation by peptidases. Such recitations potentially raise issues under 35 USC 112 with respect to whether there is adeqate[*sic*]support within the written description for the genus of analogs having the generic formula that fullfill [*sic*]the recitation of activity or as to how one of ordinary skill in the art makes the claimed structure that is "capable."
>
> Continuation of 11. does NOT place the application in condition for allowance because: The request for reconsideration, and the declaration of Dr. Gabriel S. Khodr, have been reviewed in full but they are not found persuasive to overcome the rejection for the following reasons. The grounds for the rejection of the instant claims has not changed, Claims have been rejected as being anticipated by the analogs described within the Millar prior art. The declaration is insufficient to overcome the rejection because it states that the Millar reference does not teach analogs that are modified at the tenth position. Examiner maintains that the Millar reference teaches analogs where the tenth position (position "E" in Millar) are modified. Specifically, Millar describes analogs where "E is Gly-NH2, D-Ala, Net, or aza- Gly" and which retain the "GnRHII backbone", as state in the declaration, with Histidine at the fifth position (Millar's "A"), Tryptophan at the seventh ("C") and Tyrosine at the eighth ("D"). The declaration that "it is now known that GnRHII is expressed in the immune system" is irrelevant since the claims are drawn to a peptide analog that is fully anticipated by Millar and binding to immune system receptors is inherent. The court has held that there is no requirement that a person of ordinary skill in the art would have recognized the inherent disclosure at the time of invention, but only that the subject matter is in fact inherent in the prior art reference. Since the amendments to the claims do not place the application in better condition for allowance or appeal, the Claims stand as previously presented, considered and rejected for reasons of record in the Office Action mailed June 20, 2008

It is pointed out that because the examiner indicated that entry of the amendments filed after final would raise the issue of written description, box 3(b) on the Advisory Action form should also have been checked in addition to box 3(a). This minor inadvertent discrepancy did not preclude applicant a clear understanding of why the examiner refused to enter the claim amendments after final Office action.

In response thereto, applicant filed this petition under 37 CFR § 1.181 on February 9, 2009 requesting withdrawal of finality of the Office action mailed June 20, 2008.

DISCUSSION

The petition and the file history have been carefully considered.

Applicant's contentions throughout this Petition regarding the impropriety of the examiner's continual rejection of claims 1-5 under 35 USC 102(b) pertaining to the merits of this case are not *per se* considered save for the fact that the rejections were thoroughly evaluated in order to ensure that the rejections were clear and in accordance with MPEP § 706.07 and particularly in

accordance with MPEP § 706.07(b) (Final Rejection, When Proper on First Action). Such an evaluation was undertaken in order to ascertain if in fact applicant has been afforded a fair opportunity to respond to said rejections. Applicant is reminded of the right to appeal from the examiner to the Board of Patent Appeals and Interferences to adjudicate matters pertaining to the substantive merits of this case.

Finality of Office actions is governed by MPEP § 706.07 which states, in-part:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Finality with regard to First Actions is specifically discussed by MPEP § 706.07(b):

> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

Applicant asserts that the final Office action instituted by the examiner on June 20, 2008 was premature and improper due to the contention that the examiner instituted a new ground of rejection which was not necessitated by applicant's amendments to the claims or the submission of an IDS in the interim between the mailing of the final Office action of October 27, 2007 and the final Office action of June 20, 2008. Specifically, applicant indicates:

> [The] Examiner issued a final Office Action of June 20, 2008 - **the first Office Action after the RCE – and asserted a new ground which she had never before asserted to maintain the rejection based on Millar**. Specifically, **Examiner no longer claimed as she had previously in the Office Action of October 25, 2007 that the exact decapeptide sequence of Claim 1 is disclosed in Millar**. Rather, **Examiner claimed** in the improper final Office action...**for the first time that Claim 1 is anticipated because Millar's generic formula allows one of ordinary skill in the art to 'at once envisage' the compound of claim 1...with regard to Examiner's inherency rejection, Examiner no longer claimed that the inherency was based on the '100% structural identity' which formed Examiner's initial basis for the inherency rejection.** Rather, for the first time, Examiner extended the new 'at once envisage' basis to Examiner's inherency rejection. **Applicant had not been given fair opportunity to address this**

> **new ground for rejection prior to the improper final Office action of June 20. 2008.** (pp. 4-5, Petition, emphasis added).

In support of the contentions presented *supra*, applicant offers the following:

> **Examiner's basic thrust or grounds of the rejection is different** such that an Applicant has not been given adequate opportunity to respond to the rejection...the ultimate criterion of whether a rejection is new is whether Applicant has had a fair opportunity to react to the thrust of the rejection. *In re Subject Kumar*, 418 F.3d 1361, 76 U.S.P.Q 2d 1048 (Fed. Cir. 2005). **Most importantly in the instant case, precedent is clear that where the reasoning asserted by an examiner for the anticipation rejection based on the same prior art reference is different than the reasoning previously asserted by the examiner, and an applicant has not had the fair opportunity to respond, it is a new ground for rejection.** *Ex Parte L. David Williams*, Appeal 2007-1159, 2007 WL 2063107 (Bd.Pat.App.& Interf. July 31, 2007). (p. 6, Petition, emphasis added)

Applicant's discussion with regard to the 'thrust' of the invention is keenly discussed by MPEP § 1207.03 III:

> There is no new ground of rejection when the basic thrust of the rejection remains the same such an *appellant has been given a fair opportunity to react to the rejection*...Where the statutory basis for the rejection remains the same, *and the evidence relied upon in support of the rejection remains the same*, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. (emphasis added)

Applicant's arguments have been carefully evaluated but are not found persuasive to withdraw finality of the Office action mailed on June 20, 2008 for the following reasons: A thorough review of the entirety of prosecution in this case, which includes the first Office action in this case mailed on July 11, 2007, reveals that the examiner's remarks placed in the final Office action of June 20, 2008 were merely ancillary to the rejection made in the first Office action; said rejection having been maintained throughout prosecution. A detailed explanation of this conclusion follows:

To reiterate from above, the examiner indicated in the first Office action of July 11, 2007 that Millar anticipated claims 1-5 because:

> The '571 Patent teaches analogs of gonadotrophin releasing hormone (GnRH) having the sequence of SEQ ID NO:2 (sequence Glu-His-Trp-Ser-A-B-C-D-Pro-E, wherein A is His; B is D-Arg, D-Lys, D-Trp, D-Ala, D-Nal or D-(tBu)Ser; C is Trp; D is Tyr; and E is Gly-NH2, D-Ala-NH2, [N-Ethylamide] or azaGly (see Patent abstract and page 6, paragraph 3). The reference teaches the decapeptide sequence of Chicken II GnRH (pg. 1). (see paragraph bridging pages 5 and 6).

The next rejection set forth by the examiner; that being the final Office action mailed on October 25, 2007, maintained the 35 USC 102(b) over Millar, the examiner explicitly stating "...*for the reasons of record in the Office Action filed July 11, 2007.*" (emphasis added) This statement "...for the reasons of record in the Office Action filed July 11, 2007" was a clear message to applicant that the examiner maintained the reasons for concluding that claims 1-5 were anticipated by Millar as they were presented in the Office Action mailed July 11, 2007.

Similarly, the examiner stated in the final Office action mailed June 20, 2008 that the rejection of claims 1-5 were maintained, "...for the reasons of record in the Office Action filed July 11, 2007."

The premise of applicant's Petition resides in the contention that the following excerpt rendered by the examiner in the final Office action of June 20, 2008 was a new rejection of which applicant has not been provided a fair opportunity to respond:

> Contrary to Applicant's arguments, the mere fact that Millar et al., disclose chimeric peptides in no way limits the disclosure to chimeric peptides. As stated in MPEP §2121.01 II a reference serves as prior art for all that it teaches. Beckman Instruments v. LKB ProdukterAB, 892 F.2d 1547, 1551, 13 USPQ2d 1301, 1304 (Fed. Cir. 1989). Specifically, in the formula bridging pages 2-3, the Millar Patent discloses an analog of a naturally occurring vertebrate gonadotrophin releasing hormone of the formula;
> pGlu-His-Trp-Ser-A-B-C-D-Pro-E
> wherein:
> A is His or Tyr;
> B is D-Arg, D-Lys, D-Trp, D-Ala, D-Tyr, D-NaI(2), or D-tert-but-Ser
> C is Leu or Trp;
> D is Arg, Gin, Tyr or Leu; and
> E is Gly-NH2, D-Ala.NH2, Net or aza-Gly.
> ***Section 2131.02 of the MPEP states, "A generic chemical formula will anticipate a claimed species covered by the formula when the species can be "at once envisaged" from the formula. If one of ordinary skill in the art is able to "at once envisage" the specific compound within the generic chemical formula, the compound is anticipated. In re Petering, 301 F.2d 676, 133 USPQ 275 (CCPA 1962). Thus, Examiner maintains that the '571 Patent fully anticipates the invention of the instant claims.*** (pp. 4-5 final Office action of June 20, 2008, emphasis added).

However, this portion of Millar cited by the examiner was the *original basis* for rendering claims 1-5 anticipated. It is clear that although this portion of Millar serves to offer alternative variations of amino acids which can be present in Millar's gonadotrophin releasing hormone analog, the examiner determined these alternatives anticipatory over claims 1-5 as evidenced by the 35 USC 102(b) rejection made in the first Office action. Where the examiner has provided additional support for the rejection by citing section 2131.02 of the MPEP which states, "A generic chemical formula will anticipate a claimed species covered by the formula when the species can be 'at once envisaged'... is anticipated," this citation is considered ancillary to the original finding of anticipation based on the exact excerpt of Millar cited in the original Office action. It is deemed that said citation was merely provided by the examiner to further support the original rejection and is not, as applicant asserts, a new rejection.

While the examiner stated "The '571 Patent...teaches decapeptide analogs of gonadotrophin releasing hormone (GnRH) that are structurally identical to the sequence of the instant claims. On lines 6-7, of page 1 of the '571 Patent, Millar discloses the identical analog decapeptide sequence of instant claim 1," (p. 4, final Office action of October 25, 2007) it is evident from the entirety of the Office action of October 20, 2007, that the examiner is concluding that the substitutions which *could be made* to the native GnRH sequences disclosed by Millar, *result in an identical sequence* when compared to the sequences as claimed:

> [T]he '571 Patent **teaches the specific substitution of D-Arg in the "B" residue position** (see embodiment X, page 4). It should be noted that the '571 Patent refers to this position as "5" whereas the instant application refers to this as residue "6", but that these semantic differences are rendered moot by the

'57.1 definition of this residue as "B" and that "B is D-Arg" (abstract of patent). Furthermore, the '571 Patent states, "**analogues may also be substituted at the carboxyl terminus with ...aza-Gly to enhance their activity**" (page 6, lines 15-17), Examiner here has added the emphasis to demonstrate that the **'571 Patent clearly indicates this substitution as additional to the substitution at position "B" and does not disclose an Aza-Gly substitution at position 10 alone, as inferred by Applicant's Remarks page 18, lines 17-18. Thus, the '571 Patent fully anticipates that substituted structure as defined as SEQ ID NO: 2 within the instant claims**

Hence, it is clear from the whole of the prosecution of this case that the original basis set forth by the examiner for finding the Millar reference anticipatory over claims 1-5 was that the examiner considered that the amino acid substitutions, as described by Millar, could have been made to the native GnRH sequences resulting in the same (*identical*) sequences found in claims 1-5. Consequently, the examiner's basis for rejecting the claims under 102(b) pertaining to Millar has remained constant throughout prosecution of this case.

Applicant additionally argues that the examiner, upon instituting the Advisory action on December 31, 2008 "...failed to address the impropriety of the finality of the Office Action of June 20, 2008. Instead, Examiner conclusorily [*sic*] reasoned that the basis for rejection has not changed because the claims stand rejected as anticipated by Millar" (p. 5, Petition). In accord with these assertions, applicant states "Examiner's Advisory Action Before the Filing of an Appeal Brief neither acknowledges Applicant's belief that the finality of the Office action of June 20, 2008 was improper, nor addresses the issue of whether such finality was or was not proper." (p. 7, Petition).

Although brief, the examiner did communicate the following to applicant in the Advisory Action: "The grounds for the rejection of the instant claims has not changed, Claims have been rejected as being anticipated by the analogs described within the Millar prior art." It is clear that this statement by the examiner was in direct response to applicant's allegation that the examiner had changed her basis for rejecting the claims as anticipated by Millar as relayed on pages 19-22 of the amendment filed after final Office action on December 17, 2008. Thus, the examiner did not acquiesce to applicant's statements, and the record of this case makes this fact evident considering that the examiner did not withdraw finality of the Office action mailed June 20, 2008. The examiner's traversal of applicant's assertions; though briefly communicated, appears to have been understood by applicant in that applicant, in direct response to the Advisory Action filed this Petition to withdraw finality of the Office action mailed June 20, 2008. Hence, no impropriety on the part of the examiner can be found pertaining to the Advisory Action mailed December 31, 2008.

Furthermore, the examiner, while not entering the after final amendments and Declaration submitted by applicant on December 17, 2008, did consider the substantive portion of applicant's rebuttal to the final Office action of June 20, 2008 as well as the Declaration submitted concurrently therewith as set forth in the addendum to the Advisory Action. Even after such consideration by the examiner after final Office action, the examiner's position that claims 1-5 were anticipated by Millar remained the same.

It is thus decided that the examiner did not institute a new ground of rejection in the final Office action mailed June 20, 2008 and hence, the final Office action was not premature.

Applicant's arguments are therefore not found persuasive that the final Office action issued June 20, 2008 was premature and the finality of the Office action will be not be withdrawn.

DECISION

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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MAY 3 1 2006

Technology Center 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

In re Application of: MIKI, KENICHI
Application No. 10/915,557
Filed: 11 August 2004
For: STORAGE SYSTEM AND STORAGE SYSTEM CONTROL METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 8 August 2005, to make the above-identified application special, under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/30/2010

Applicant	: Timothy Michael Schaefer	: DECISION ON REQUEST FOR
Patent Number	: 7643536	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,576	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1402** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

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AUG 07 2008

OFFICE OF PETITIONS

In re Application of	:	
OTSUKA, et al.	:	
Application No. 10/915,603	:	DECISION GRANTING PETITION
Filed: August 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1021.44143X00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 6, 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 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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, the signature of Mr. Paul J. Skwierawski 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

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.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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WILSON DANIEL SWAYZE, JR.
3804 CLEARWATER CT.
PLANO, TX 75025

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Lanny L. Johnson	:	
Application No. 10/915,610	:	DECISION ON PETITION
Filed: August10, 20046	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 22 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 does not include a legible copy of the applicant's birth certificate. The year of the applicant's birth date is cut off.

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 undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 to await a response to the Office action mailed March 5, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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PLANO, TX 75025

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OFFICE OF PETITIONS

In re Application of	:	
Lanny L. Johnson	:	
Application No. 10/915,610	:	DECISION ON PETITION
Filed: August 10, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 9, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 does not include a legible copy of the applicant's birth certificate. The year of the applicant's birth date is still unreadable.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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P. O. Box 1450
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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 undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 to await a response to the Office action mailed March 5, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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JJGJR.: 01-05

Paper No: __

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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JAN 26 2005
OFFICE OF PETITIONS

In re Application of
Caufield, et al.
Application No. 10/915,637
Filed: 9 August, 2004
Attorney Docket No. AM101053

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 29 October, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 9 August, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 4 October, 2004, the Office mailed a Notice to File Missing Parts;

- on 29 October, 2004, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by named inventors save for Craig Eugene Caufield (Mr. Caufield), the non-signing inventor; and, *inter alia*, a narrative within the petition and in a separate statement by Petitioner Barbara L. Lences (Reg. No. 41,148);

- also included are: correspondence evidencing transmittal of the entire application (specification, claims, drawings) to Mr. Caufield after a due diligence effort was made to

ascertain the current address of the non-signing inventor; and a statement that the inventor nonetheless has failed to sign the oath or declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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JJGJR.: 01-05

Paper No: __

CRAIG EUGENE CAUFIELD
355 PROSPECT AVENUE
BROOKLYN, NY 11215

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JAN 27 2005 CANCELLED JAN 26 2005
OFFICE OF PETITIONS OFFICE OF PETITIONS

In re Application of
Caufield, et al.
Application No. 10/915,637
Filed: 9 August, 2004
Attorney Docket No. AM101053

COMMUNICATION

Dear Craig Eugene Caufield:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in

the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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In re Application of	:	
Caufield et al.	:	
Application No. 10/915,637	:	LETTER REGARDING
Filed: August 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
AM101053	:	

This letter is in response to the "LETTER OF GOOD FAITH AND CANDOR REGARDING PATENT TERM ADJUSTMENT (PTA)," filed September 5, 2008. Petitioners request that the patent term adjustment (PTA) calculation to date be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED.**

On June 6, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is five hundred twenty (520) days.

Applicant requests review of the patent term adjustment based on the filing of a request for continued examination (RCE) and an information disclosure statement (IDS), both filed on February 12, 2008.

The RCE (and IDS) were filed as the response to the Notice of Allowance in lieu of payment of the Issue Fee. Accordingly, any applicant delay for the filing of the RCE is properly calculated pursuant to 37 CFR 1.704(b), not 1.704(c)(10). 37 CFR 1.704(b) provides, in pertinent part:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or

> examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

The notice of allowance was mailed on November 15, 2007, and the RCE was filed on February 12, 2008. As the RCE was filed within the three (3) month period provided for in 37 CFR 1.704(b), entry of a period of reduction is not warranted.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is five hundred twenty (520) days (520 days of PTO delay, reduced by no (0) days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS MO 63102

In re Application	:	
Cohen et al.	:	
Application No. 10/915,642	:	LETTER REGARDING
Filed: August 10, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 20599A (27839-138)	:	

This letter is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT" filed July 6, 2009. Applicants requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On May 8, 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 824 days. On July 6, 2009, applicants submitted the instant comment.

Applicants indicate that they believe that the determination of patent term adjustment should be 823 days. Specifically, applicants state:

> Additionally, as noted above, Applicants filed a Notice of Appeal on February 12, 2007. A copy of the dated Notice is enclosed. The Board of Patent Appeals and Interferences issued a Decision on Appeal on May 4, 2009, in which the Examiner was reversed. As such, Applicants are entitled to an additional patent term extension equivalent to the number of days the Examiner's rejections were on appeal. It appears from PAIR that the Office mistakenly calculated this time period as

> eight hundred thirteen days (813). It is believed, however, that the correct time period is eight hundred twelve days (812).

Letter of 07/06/09, pp. 1-2.

A review of the record supports a conclusion that the period of adjustment under § 1.702(e) is 813 days.

Pursuant to 37 CFR 1.703(e), the period of adjustment is the sum of the number of days in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and 37 CFR 41.31, February 12, 2007, and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, May 4, 2009. The Office notes that "[w]hen a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

In view thereof, the determination of patent term adjustment remains 824 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 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

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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/08/2010

Applicant	: Jason C. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7642397	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/915,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LAWRENCE SHURUPOFF
SUNBEAM PRODUCTS, INC
2381 EXECUTIVE CENTER BLVD
BOCA RATON FL 33431

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OFFICE OF PETITIONS

In re Patent No. 7158040	:	
Issue Date: 01/02/2007	:	
Application Number: 10/915672	:	LETTER
Filing or 371(c) Date: 08/10/2004	:	
Attorney Docket Number: 92690	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION" filed on March 12, 2007, requesting deletion of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner asserts that no assignment in accordance with 37 CFR 3.11 has been recorded in this patent, but that an assignee's name was listed in error on Form PTOL-85(b) at the time the issue fee was paid.

Since there was no assignee of record, the name should not have been included on the PTOL-85(b).

Upon review, the request is **granted**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3131. 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Michael Symons
Application No. 10/915,700
Filed: August 10, 2004
Attorney Docket No. 11295

ON PETITION

This is a decision on the petition filed March 20, 2007, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on May 22, 2006, for failure to file a timely response to the Office Communication mailed April 20, 2006, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed September 6, 2006.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Office Communication filed March 20, 2007 will be referred to Technology Center 1744 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

Mail Date: 04/21/2010

Applicant	: Paul Patrick Cleary	: DECISION ON REQUEST FOR
Patent Number	: 7635483	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL, MN 55111-1098

Mail Date: 05/18/2010

Applicant : Paul Patrick Cleary
Patent Number : 7635483
Issue Date : 12/22/2009
Application No : 10/915,705
Filed : 08/10/2004

: 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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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Daniel R. Burnett et al	:	
Application No. 10/915,716	:	DECISION ON PETITION
Filed: April 9, 2004	:	TO WITHDRAW
Attorney Docket No. 022190-000400US	:	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 11, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Daniel R. Burnett
215 Valdez Avenue
San Francisco, CA 94127

cc: Luce, Forward, Hamilton & Scripps LLP
11988 El Camino Real, Suite 200
San Diego, CA 92130

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MAY 23 2005

Dennis W. Davis
427 East Washington Avenue
Eustis FL 32726

In re Application of	:	
Jeffrey L. Powers et al	:	DECISION PETITION
Serial No.: 10/915,720	:	
Filed: August 10, 2004	:	
Title: Wearable Skin Treatment Device	:	

This is in response to the petition applicant filed on November 8, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville, CA 94662-8097

Mail Date: 04/21/2010

Applicant	: Claire Marie Fraser	: DECISION ON REQUEST FOR
Patent Number	: 7612192	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **381** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Martin Heldmann	: DECISION ON REQUEST FOR
Patent Number	: 7651102	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	:	
Abolfathi et al.	:	DECISION ON PETITION TO
Application Number: 10/915778	:	WITHDRAW HOLDING OF
Filing Date: 08/11/2004	:	ABANDONMENT
Attorney Docket Number:	:	
9054.ALG.X1	:	

This is a decision on reference to the "PETITION FOR WITHDRAWAL OF ABANDONMENT," filed on January 17, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on May 16, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on December 28, 2007.

Petitioner asserts that a proper and timely reply in the form of an amendment in response to the non-final Office action was filed on August 14, 2007. A copy of the reply has been provided with the subject petition.

A review of the record reveals that a timely reply, including the amendment, was filed on August 14, 2007, and is located in the Office's Image File Wrapper system.

As such, the papers filed on August 14, 2007, constituted a complete and timely response to the Office action mailed on May 16, 2007.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application will be referred to Technology Center Art Unit 3732 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Bikram Kapoor	: DECISION ON REQUEST FOR
Patent Number	: 7595088	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1044** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7606431	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **394** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
7257 N. MAPLE AVENUE
BLDG. D, SUITE 107
FRESNO CA 93720

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Koh	:	
Application No. 10/915,818	:	DECISION ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. OPP041606US	:	

This is a decision on the petition under 37 CFR §1.137(b), filed August 15, 2005 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed February 18, 2005 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on May 19, 2005. A Notice of Abandonment was mailed on August 3, 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 corrected drawings submitted with the instant petition.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

Mail Date: 04/21/2010

Applicant	: Jennifer Stanley	: DECISION ON REQUEST FOR
Patent Number	: 7613656	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,820	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Harshaw Research Incorporated
P.O. Box 418
Ottawaks, KS 66067

MAIL

OCT 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Dorothy L. Hammond :
Application No. 10/915,863 : DECISION ON PETITION
Filed: August 11, 2004 : TO MAKE SPECIAL
For: SECURITY DEVICE AND ALARM :
SYSTEM :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed August 11, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Dorothy L. Hammond that she is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Thomas J. Burick :
Application No. 10/915,885 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No. 4357-044726 :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 24, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed September 28, 2005. A Notice of Abandonment was mailed on April 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $25 for claims in excess of twenty paid on July 24, 2006.

This application file is being referred to Technology Center Art Unit 3618, 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

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P.O. Box 1450
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Ronald M. Goldman
21535 Hawthorne Blvd.
Suite 500
Torrance, CA 90503

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AUG 1 1 2008

In re Application of	:	
Mark A. Farley	:	
Application No. 10/915,893	:	DECISION ON PETITION
Filed: August 10, 2004	:	TO WITHDRAW
Attorney Docket No. 11315	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 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 Ronald M. Goldman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Mark A. Farley at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed December 17, 2007.

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: **Mark A. Farley**
18 Gardenside Drive, Apt. 8
San Francisco, CA 94131

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/915,893	08/10/2004	Mark A. Farley	11315

CONFIRMATION NO. 9776

POWER OF ATTORNEY NOTICE

OC000000031487678

2604
RONALD M. GOLDMAN
21535 HAWTHORNE BLVD.
SUITE 500
TORRANCE, CA 90503

Date Mailed: 08/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Renold J. Russie	: DECISION ON REQUEST FOR
Patent Number	: 7620452	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/915,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1261** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LOCKE LIDDELL & SAPP LLP
ATTN: SUE COTT
2200 ROSS AVE
SUITE 2200
DALLAS TX 75201-6776

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OFFICE OF PETITIONS

In re Application of	:	
Donald James Hayes	:	DECISION ON PETITION
Application No. 10/915,904	:	
Filed: August 11, 2004	:	
Attorney Docket No. 62305.00002	:	

This is a decision on the petition filed September 12, 2005, pursuant to 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 reply to the Notice to File Missing Parts, mailed October 12, 2004. This Notice set a period for reply of two months from the mail date of the Notice to submit an executed oath or declaration (and a surcharge for its late filing), together with a replacement claims and abstract sheets. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on December 13, 2004. A Notice of Abandonment was mailed on July 7, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the

The Power of Attorney submitted with the instant petition has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Mulligan, et al. : DECISION ON PETITION
Application No. 10/915,923 :
Filed: August 11, 2004 :
Atty. Dkt. No.: 03248.00101 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 19, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181." This is not a final agency decision.

This application became abandoned April 10, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed January 9, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 6, 2007.

Petitioners allege that the Notice mailed January 9, 2007 was received May 9, 2007. Petitioners acknowledge receipt of the Supplemental Notice of Allowability mailed June 19, 2007. Petitioners state that the Supplemental Notice of Allowability did not include an "updated PTOL-85." Petitioners further state that petitioners believed the issue fee and publication fee were due September 19, 2007, three months after the mail date of the Supplemental Notice of Allowability. Petitioners reference oral conversations with various USPTO employees.

The PTOL-85 issue fee transmittal form was mailed as part of the Notice of Allowance and Issue Fee Due. The Supplemental Notice of Allowability did not reset the time period for reply to the

Notice of Allowance. The application went abandoned as a matter of law in accordance with 35 USC 133 on April 10, 2007 for failure to timely reply to the Notice of Allowance and Issue Fee Due mailed January 9, 2007. Absent a withdrawal of the Notice of Allowance and Issue Fee Due, or a timely filed grantable petition to reset the period of time for reply, the issue fee and publication fee were due on or before April 9, 2007.

To the extent that petitioners allege late receipt of the Notice of Allowance and Issue Fee due, the proper procedure to follow would have been to submit a petition to reset the period of time for reply to the Notice of Allowance and Issue Fee Due at the time of receipt of the Notice of Allowance and Issue Fee Due, as set forth in the procedures outlined at MPEP 710.06.

Further, applicants' reliance upon oral advice from USPTO employees is not grounds for withdrawal of the holding of abandonment.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand 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

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TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Application of	:
Mulligan, et al.	: DECISION ON PETITION
Application No. 10/915,923	:
Filed: August 11, 2004	:
Atty. Dkt. No.: 03248.00101	:

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 20, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181." This is not a final agency decision.

This application became abandoned April 10, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed January 9, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 6, 2007.

The petition filed September 19, 2007 alleged that the Notice mailed January 9, 2007 was received May 9, 2007. Petitioners acknowledged receipt of the Supplemental Notice of Allowability mailed June 19, 2007. Petitioners argued that the Supplemental Notice of Allowability did not include an "updated PTOL-85." Petitioners further stated that petitioners believed the issue fee and publication fee were due September 19, 2007, three months after the mail date of the Supplemental Notice of Allowability. Petitioners referenced oral conversations with various USPTO employees.

As previously stated on decision mailed December 20, 2007, the PTOL-85 issue fee transmittal form was mailed with the Notice of

Allowance and Issue Fee Due on January 9, 2007. The Supplemental Notice of Allowability did not reset the time period for reply to the Notice of Allowance. The application went abandoned as a matter of law in accordance with 35 USC 133 on April 10, 2007 for failure to timely reply to the Notice of Allowance and Issue Fee Due mailed January 9, 2007. Absent a withdrawal of the Notice of Allowance and Issue Fee Due, or a timely filed grantable petition to reset the period of time for reply, the issue fee and publication fee were due on or before April 9, 2007.

Petitioners are again reminded that applicants' reliance upon oral advice from USPTO employees is not grounds for withdrawal of the holding of abandonment as the Office only communicates officially in writing.

Insofar as the renewed petition submitted February 20, 2008, it would seem that the Notice of Allowance and Issue Fee Due that petitioners allege they received May 9, 2007 was merely a courtesy copy of the Notice of Allowance and Issue Fee Due mailed January 9, 2007. Thus, petitioners are seemingly alleging non-receipt of the original Notice of Allowance and Issue Fee Due mailed January 9, 2007.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. 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 instant petition does not establish non-receipt of the Notice mailed January 9, 2007 in compliance with the procedures set forth at MPEP 711.03(c). Thus, it cannot be found that practitioner's docketing system is sufficiently reliable.

Any renewed petition must establish non-receipt of the Notice of Allowance mailed January 9, 2007 as set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand 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

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United States Patent and Trademark Office
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In re Application of	:
Mulligan, et al.	: DECISION ON PETITION
Application No. 10/915,923	:
Filed: August 11, 2004	:
Atty. Dkt. No: 03248.00101	:

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed December 18, 2008.

This application was held abandoned April 10, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed January 9, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 6, 2007.

Petitioners assert non-receipt of the Notice. Petitioner indicates that a search of the file jacket and the docket records indicate that the Notice was not received. Petitioner has included, *inter alia*, copies of docket records for the instant application which purport to establish non-receipt of the Notice.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. 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 instant petition and accompanying documents have been carefully reviewed and found in compliance with the procedures to establish non-receipt of an Office communication set forth at MPEP 711.03(c).

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**. The holding of abandonment is WITHDRAWN and the Notice of Abandonment is hereby VACATED.

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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

Date Mailed : 6-29-06

Application: 10/916933
Patent No.: 6,944,366
Patent Issued : September 13, 2005
Inventor(s) : Aksyuk, et. al.
Title: PLANAR LIGHTWAVE WAVELENGTH DEVICE USING MOVEABLE MIRRORS
Docket No.: 35-92-5

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

The alleged errors on the title page under References Cited [56] because there is no evidence of record that the prior art was timely cited.

In view of the foregoing, your request is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Kevin M. Mason
Ryan, Mason & Lewis
1300 Post Road, Suite 205
Fairfield, CT 06824

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/915,940	08/11/04	Tucker	113287.123US2

CONFIRMATION NO. 3814

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Stret

Boston, MA 02109

Date Mailed: April 7, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed October 28, 2004 is acknowledged.

The procedure for submitting replacement drawings by filing a petition under 37 CFR 1.182 and a petition fee has been eliminated. Mail Stop PGPUB Drawings has also been eliminated. The Office may include any replacement drawings filed in compliance with 37 CFR 1.84 and 1.121(d) in the patent application publication if the replacement drawings are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun (generally four months prior to the projected publication date.) See *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, Final Rule, 68 *Fed. Reg.* 56481, 56514-56525 (Sept. 21, 2004).

Accordingly, the replacement drawings filed with the petition under 37 CFR 1.182 may be included in the patent application publication if the drawings are in compliance with 37 CFR 1.84 and 1.121(d) and if they are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

If a petition fee or processing fee was submitted with the replacement drawings, then the fee has been refunded.

Telephone inquiries regarding this letter should be directed to the Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Kalethia King
Pre Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
C. Martin Rasmussen	:	
Application No. 10/915,984	:	ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. 038664-0121	:	

This is a decision on the petition under 37 CFR 1.313(c), filed November 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 May 24, 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 3612 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon

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).

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 10/916010 received on 09/07/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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AUG 03 2007

OFFICE OF PETITIONS

In re Application of :
Richard Stoltz et al :
Application No. 10/916,017 : DECISION GRANTING PETITION
Filed: August 11, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PA3074US :

This is a decision on the petition, filed August 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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]

It is noted that the amendment contains a claim for benefit of priority to at least one provisional application that was not claimed on filing or within the time period provided by 37 CFR 1.78(a)(5)(ii). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e). *See* 37 CFR 1.78(a)(6).

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3735 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\aug10\916017.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.*

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/8/08

TO SPE OF : ART UNIT 2821 Philogene, Haiss

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/916618 Patent No.: 7135824

Please respond to this request for a certificate of correction within 7 days.

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

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: _____

Douglas K. Owen — SPE

2821 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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MAR 03 2010

In re Patent No. 7,546,930	: DECISION ON REQUEST
Banik, et al.	: FOR
Issue Date: June 16, 2009	: RECONSIDERATION OF
Application No. 10/916,019	: PATENT TERM ADJUSTMENT
Filed: August 11, 2004	: and
Atty Docket No. 076565-0141	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred sixteen (1,216) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred sixteen (1,216) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, two hundred sixteen (1,216)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,546,930 B2

DATED Jun. 16, 2009

INVENTOR(S) : Banik, 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 (689) days

Delete the phrase "by 689 days" and insert – by 1,216 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of
Brent Thomas, et al.
Application No. 10/916,028
Filed: August 10, 2004
Attorney Docket No. 116536-152153

ON PETITION

This is a decision in response to the petition, filed December 4, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 22, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 23, 2008. A Notice of Abandonment was mailed on November 14, 2008. On December 4, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, including a terminal disclaimer; (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 $1,110 extension of time fee submitted with the petition on October 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the amendment received December 4, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Application No. PCT/US02/15876

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Howard S. Stern :
Application No. 10/916,047 :
Filed: August 10, 2004 :
Attorney Docket No. 048777/281702 :
: ON PETITION

This is a decision on the petition filed on March 2, 2005 under 37 CFR 1.182. Applicant seeks to maintain the August 10, 2004 filing date and correct the file of the above-identified application such that the response to the Notice of Omitted Items be placed in the proper application.

A Notice of Omitted Item(s) in a Nonprovisional Application was mailed on October 14, 2004. The Notice set a two month period for reply indicated that figures 11-16 as described in the specification appeared to have been omitted. In response applicant submitted a preliminary amendment, and figures 1-19 (including omitted figures 11-19). Petitioner sought to add figures 11-16 via incorporation by reference and preliminary amendment. However, the drawings and preliminary amendment were inadvertently filed in the incorrect application (10/916,407).

Applicant request that the preliminary amendment and the drawings submitted in response to the Notice of Omitted Parts filed in Application No. 10/916,407 on October 20, 2004, be transferred to the file of Application No. 10/916,047. Petitioner also request that 10/916,047 maintain the August 10, 2004 filing date.

A review of application 10/916,407 shows that the preliminary amendment and drawings submitted on October 20, 2004 have been located. The preliminary amendment and drawings will be transferred to the correct application (10/916,047).

However, pursuant to MPEP 201.06 (c) the primary examiner will

make a determination as to whether the preliminary amendment and drawings should be entered on the basis that they do not present new matter.

The preliminary amendment and drawings submitted on October 20, 2004 will be scanned into application 10/916,047 and closed in application 10/916, 407.

The petition is **granted** to the extent indicated above.

As this petition was necessitated by applicants' filing error, the petition fee in the amount of $400.00 will be charged to deposit account 16-0605.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of August 10, 2004** using the application papers received in the Office on that date.

Telephone inquiries concerning this matter 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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CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Patent No. 7,425,612	:	
Issued: September 16, 2008	:	
Application No. 10/916,064	:	PATENT TERM ADJUSTMENT
Filed: August 10, 2004	:	
Dkt. No.: 082379-000300US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed November 13, 2008.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,425,612 on September 16, 2008. The patent issued with a PTA 243 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 patent term adjustment be increased from 243 days to 646 days.

Patentees request reconsideration 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, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.702(b), of 403 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1), of 415 days do not overlap as these periods do not occur on the same day. The 403 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on August 10, 2004 and the patent having been issued on September 16, 2008. Patentees assert that in addition to this 403-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 415 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 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 818 days (the sum of the period of three year delay (403 days) and the period of examination delay (415 days), reduced by zero days of overlap. As such, patentees assert entitlement to a patent term adjustment of 646 days (403 days *plus* 415 days *less* zero days of overlap *less* 172 days of applicant delay).

The Office agrees that as of the issuance of the patent on September 16, 2008, the application was pending three years and 403 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 415 days is correct. At issue is whether patentees should accrue an additional 403 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 415 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 403 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 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].

---

[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

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, August 10, 2004, to the date the patent issued on September 16, 2008. Prior to the issuance of the patent, 415 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 403 days after its filing date. However, the Office did not delay 415 days and then delay an additional 403 days. Accordingly, 415 days of patent term adjustment (not 415 days and 403 days) was properly entered because the period of delay of 403 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 415 days attributable to grounds specified in § 1.702(a)(1). 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. See, 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

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 7,425,612	: DECISION ON APPLICATION FOR
Issued: September 16, 2008	: PATENT TERM ADJUSTMENT and
Application No. 10/916,064	: NOTICE OF INTENT TO ISSUE
Filed: August 10, 2004	: CERTIFICATE OF CORRECTION
Dkt. No.: 082379-000300US	:

This is a decision on the petition filed on August 5, 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 646 days.

The petition was filed within two months of a decision by the Office mailed on June 5, 2009 dismissing applicant request for reconsideration of PTA under 37 CFR 1.705(d).

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 646 days is **GRANTED**.

The application is being forwarded to the Certificate 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 646 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,425,612 B2

DATED : **September 16, 2008** **DRAFT**

INVENTOR(S) : Nakamura, 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 243 days

Delete the phrase "by 243 days" and insert – by 646 days--

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United States Patent and Trademark Office
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JANET P. SCHAFER
SCHAFER LAW OFFICE, P.A.
727 TORCHWOOD CIRCLE
NEW BRIGHTON, MN 55112-2538

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Application of	:
Andrew Arguedas et al	: DECISION ON PETITION
Application No. 10/916,069	: UNDER 37 CFR 1.137(b)
Filed: August 11, 2004	: AND 37 CFR 1.102(c)(1)
Attorney Docket No. 03-4294	:

This is a decision on the petition, filed March 9, 2006, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f). This is also a decision on the petition under 37 CFR 1.102(c)(1), filed March 30, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

The petition under 37 CFR 1.102(c)(1) is **DISMISSED** since the grantable petition under 37 CFR 1.137(b) has not been received. Accordingly, the petition under 37 CFR 1.102(c)(2)(i) will not be treated on its merits.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition fails to comply with item (3) above.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 at 571-272-3220.

This application is being referred to Files Repository.

Wan Laymon

Wan Laymon
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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JANET P. SCHAFER
SCHAFER LAW OFFICE, P.A.
727 TORCHWOOD CIRCLE
NEW BRIGHTON, MN 55112-2538

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JUL 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Arguedas et al.	:	
Application No. 10/916,069	:	DECISION GRANTING PETITION
Filed: August 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-4294	:	

This is a decision on the renewed petition, filed May 16, 2006, 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 November 23, 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 October 19, 2006, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3763 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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727 TORCHWOOD CIRCLE
NEW BRIGHTON, MN 55112-2538

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OFFICE OF PETITIONS

In re Application of	:	
Arguedas et al.	:	
Application No. 10/916,069	:	DECISION GRANTING
Filed: August 11, 2004	:	PETITION
Attorney Docket No. 03-4294	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 16, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of Wilbur Eidson's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3763 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/916,069	08/11/2004	Andrew Arguedas	03-4294

CONFIRMATION NO. 7958

Janet P. Schafer
SCHAFER LAW OFFICE, P.A.
727 Torchwood Circle
New Brighton, MN 55112-2538

Date Mailed: 07/11/2006

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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RICHARD M. GOLDMAN
371 ELAN VILLAGE LANE
SUITE 208
SAN JOSE CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Akihiro Inokuchi	:	
Application No. 10/916074	:	
Filing or 371(c) Date: 08/11/2004	:	ON PETITION
Attorney Docket Number:	:	
JP920030169US1	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 19, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 20, 2007. A Notice of Abandonment was mailed October 3, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 2162 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
CHOPRA	:	
Application No. 10/916,085	:	DECISION ON PETITION
Filed: August 10, 2004	:	TO WITHDRAW
Attorney Docket No. 12857/2	:	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 24, 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 Michael P. Paul on behalf of all attorneys of record who are associated with customer No. 26646. All attorneys/agents associated with the Customer Number 26646 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 Joe Smith at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AVIK CHOPRA**
24 67TH STREET
WEST NEW YORK, NJ 07093

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
10/916,085	08/10/2004	Avik Chopra	12857/2

CONFIRMATION NO. 8570

OC000000021721359

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Date Mailed: 12/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2006.

- 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

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Shafidul Islam et al	:	
Application No. 10/916,093	:	DECISION GRANTING PETITION
Filed: August 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1401510-007-Con	:	

This is a decision on the petition, filed March 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 8, 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 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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COMMISSIONER FOR PATENTS
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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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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. 10/916,112	: DECISION GRANTING PETITION
Filed: August 11, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038664-0119	:

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 September 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 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

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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 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/916,126	08/11/04	Tucker	113287.125US1

CONFIRMATION NO. 3814

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Stret

Boston, MA 02109

Date Mailed: April 7, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed October 28, 2004 is acknowledged.

The procedure for submitting replacement drawings by filing a petition under 37 CFR 1.182 and a petition fee has been eliminated. Mail Stop PGPUB Drawings has also been eliminated. The Office may include any replacement drawings filed in compliance with 37 CFR 1.84 and 1.121(d) in the patent application publication if the replacement drawings are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun (generally four months prior to the projected publication date.) See *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, Final Rule, 68 *Fed. Reg.* 56481, 56514-56525 (Sept. 21, 2004).

Accordingly, the replacement drawings filed with the petition under 37 CFR 1.182 may be included in the patent application publication if the drawings are in compliance with 37 CFR 1.84 and 1.121(d) and if they are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

If a petition fee or processing fee was submitted with the replacement drawings, then the fee has been refunded.

Telephone inquiries regarding this letter should be directed to the Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Kaletra King
Pre Grant Publication

5/13/04

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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DEC 27 2007

OFFICE OF PETITIONS

In re Patent No. 7,142,049	:	
Issued: November 28, 2006	:	
Application No. 10/916,131	:	NOTICE
Filed: August 11, 2004	:	
Patentee: Larry Kirn	:	

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.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 26 2004

Paper No. 101804

James Ristas
ALIX, YALE & RISTAS, LLP
750 Main Street
Hartford, CT 06103-2721

In re Application of:	:	
FROMSON *et al.*	:	DECISION ON PETITION
Serial No.: 10/916,153	:	TO MAKE SPECIAL
Filed: August 11, 2004	:	
Attorney Docket No.: **FRO/192/US**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 11, 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, Howard A. Fromson, 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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRACCO RESEARCH USA INC.
305- COLLEGE ROAD EAST
PRINCETON, NJ 08540

Mail Date: 04/21/2010

Applicant	: Hong Fan	: DECISION ON REQUEST FOR
Patent Number	: 7666979	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1186** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WASHINGTON, DC 20231
www.uspto.gov

Patrick G. Burns, Esq.
GREEN, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Dr.
Chicago, IL 60606

MAIL

MAY 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Takahashi, Shinichi
Serial No.: 10/916,161
Filed: August 11, 2004
For: **RAMP LOADING UNIT AND DRIVE HAVING THE SAME**

DECISION ON PETITION
ACCEPTANCE OF COLOR PHOTOGRAPHS

This is a decision on the petition under filed August 11, 2004 which is being treated as a petition under 37 C.F.R. § 1.84(a)(2), requesting acceptance of color photographs for drawings.

The petition requests that the color photographs for 10A-10C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition did not contain three (3) complete sets of color photographs for drawings. Currently there are only two sets of colored photographs associated with the file.

Therefore the *petition* is **DISMISSED**.

The petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include three (3) sets of color drawings, color photographs and a black and white photocopy of the same.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Patrick G. Burns, Esq.
GREEN, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Dr.
Chicago, IL 60606

MAIL

MAY 09 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Takahashi, Shinichi	:	
Serial No.: 10/916,161	:	DECISION ON PETITION
Filed: August 11, 2004	:	*ACCEPTANCE OF COLOR PHOTOGRAPHS*
For: **RAMP LOADING UNIT AND DRIVE**	:	
HAVING THE SAME	:	

This is a decision on the petition under filed August 30, 2007 which is being treated as a petition under 37 C.F.R. § 1.84(a)(2), requesting acceptance of color photographs for drawings.

The petition requests that the color photographs for 10A-10C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The *petition* is **GRANTED**.

Michael Horabik
Special Program Examiner
Technology Center 2600
Communications

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration

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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TYLER T. VANHOUTAN
HOWREY, SIMON, ARNOLD & WHITE LLP
2941 FAIRVIEW PARK DRIVE
SUITES 200 & 300
FALLS CHURCH, VA 22042

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Jaroslav Belik	:	
Application No. 10/916,164	:	DECISION GRANTING PETITION
Filed: August 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	
12038.0009.NPUS00		

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 8, 2006, as required by the Notice of Allowance and Fee(s) Due mailed February 7, 2006. A Notice of Abandonment was mailed on June 27, 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 and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney to prosecute the above-identified 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 concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Raxford A. Johnson
1111 Louisiana, 25th Floor
Houston, TX 77002

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TYLER T. VANHOUTAN
HOWREY, SIMON, ARNOLD & WHITE LLP
2941 FAIRVIEW PARK DRIVE
SUITES 200 & 300
FALLS CHURCH, VA 22042

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Jaroslav Belik	:	
Application No. 10/916,164	:	LETTER
Filed: August 11, 2004	:	
Attorney Docket No.	:	
12038.0009.NPUS00		

This is a notice regarding your communication filed February 16, 2006, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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PATENT DEPARTMENT
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK NY 10036

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DEC 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
MARTINEZ	:	
Application No. 10/916,174	:	DECISION ON PETITION
Filed: August 11, 2004	:	TO WITHDRAW
Attorney Docket No. Aurora-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 Guy Perry on behalf of all attorneys of record who are associated with customer No. 26137. All attorneys/agents associated with the Customer Number 26137 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 Joe Smith at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWIN A. MARTINEZ**
AURORA WIRELESS TECHNOLOGIES, LTD
CALLE PLAZA #23, MIRADOR NORTE
SANTO DOMINGO, DOMINICAN REPUBLIC

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
10/916,174	08/11/2004	Edwin Alberto Martinez	Aurora-001

CONFIRMATION NO. 9039

OC000000021720934

26137
PATENT DEPARTMENT
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK, NY 10036

Date Mailed: 12/22/2006

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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of Lawrence, et al. Application No. 10/916,198 Filed: August 11, 2004 Attorney Docket No. 0043.0001US1 For: METHOD AND SYSTEM FOR CIRCULAR POLARIZATION CORRECTION FOR INDEPENDENTLY MOVING GNSS ANTENNAS	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed October 22, 2004, requesting that Figures 5 be accorded a filing date of August 11, 2004.

The application was filed on August 11, 2004. On October 18, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing applicants that Figure 5, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 5 be accorded a filing date of August 11, 2004 on the basis that 7 sheets of formal drawing figures, including Figure 5, were received in the Patent and Trademark Office (PTO) on August 11, 2004. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 11, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of formal drawing figures were filed on August 11, 2004. MPEP 503. A review of the application file reveals that there are only 6 sheets of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 11, 2004**, using the copy of Figure 5 submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on initial filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HENRY I. SCHANZER
29 BROOKFALL ROAD
EDISON NJ 08817

In re Application of	:	
Han, et al.	:	
Application No. 10/916,206	:	DECISION
Filed: 11 August, 2004	:	
Attorney Docket No. ZEBEX 7	:	

This is a decision on the petition filed on 7 September, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to 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.)

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 30 April, 2007, with reply due under a non-extendable deadline on or before 30 July, 2007.

The application went abandoned by operation of law after midnight 30 July, 2007.

The Office mailed a Notice of Abandonment on 23 August, 2007, 2007.

On 7 September, 2007, Petitioner submitted the petition with fee, with a reply in the form of fees due, and made a statement of unintentional delay.

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

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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.

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Afshin Falsafi	: DECISION ON REQUEST FOR
Patent Number	: 7632098	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **391** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OCT 26 2005
OFFICE OF PETITIONS

In re Application of	:
C. Martin Rasmussen	:
Application No. 10/916,253	: DECISION GRANTING PETITION
Filed: August 11, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038664-0120	:

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 May 24, 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

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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 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).*

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of

MITCHELL, Steve
Application No. 10/916,279
Filed: August 11, 2004
Attorney Docket No. **19433A-007911US**

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 10, 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **STEVE MITCHELL**
776 DUKE CIRCLE
PLEASANT HILL, CA 94523

cc: **DAVID L. MCCOMBS**
HAYNES AND BOONE, LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082

18 OCT 2004

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of MULLER-HIPPER et al U.S. Application No.: 10/916,308 PCT Application No.: PCT/DE02/03916 Int. Filing Date: 16 October 2002 Priority Date Claimed: 25 October 2001 Attorney Docket No.: 20196/0201706-US0 For: ELECTROPLATING DEVICE AND ELECTROPLATING SYSTEM FOR COATING ALREADY CONDUCTIVE STRUCTURES	:	DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 11 August 2004.

BACKGROUND

On 16 October 2002, applicant filed international application PCT/DE02/03916, which claimed priority of an earlier Germany application filed 25 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 08 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 25 April 2004.

International application PCT/DE02/03916 became abandoned as to the United States for failure to timely pay the basic national fee.

On 11 August 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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 08 June 1995.

With regard to item (1), the filing of a continuation application under 35 U.S.C. 111 is a proper reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111(a).

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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DECHERT, LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

Mail Date: 04/20/2010

Applicant	: S. Christopher Davis	: DECISION ON REQUEST FOR
Patent Number	: 7629157	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **796** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DECHERT, LLP
P.O. BOX 390460
MOUNTAIN VIEW, CA 94039-0460

Mail Date: 05/17/2010

Applicant : S. Christopher Davis
Patent Number : 7629157
Issue Date : 12/08/2009
Application No : 10/916,311
Filed : 08/11/2004

: 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 **830** 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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OPPENHEIMER WOLFF & DONNELLY
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Chunhong Hou	:	
Application No. 10/916,347	:	DECISION ON PETITION
Filed: August 11, 2004	:	TO WITHDRAW
Attorney Docket No. 22620-3001	:	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, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reason for withdrawal was not indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

This application is being referred to Technology Center AU 3731 to await a reply to the non-final Office action mailed march 3, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Hou	:	
Application No. 10/916,347	:	DECISION ON PETITION
Filed: August 11, 2004	:	TO WITHDRAW
Attorney Docket No. 22620-3001	:	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 26, 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 A. Prange on behalf of all attorneys of record who are associated with customer No. 34205.

All attorneys/agents associated with the Customer Number 34205 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

It is noted that the correspondence address is not affected by this withdrawal. However, since all the attorneys of record have been withdrawn from this application and will no longer prosecute it is necessitated that the address be changed to that of the first named inventor at the cc: address listed below.

There is an outstanding Office action mailed March 3, 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: Chunhong Hou
8832 Carriage Hill Road
Savage, MN 55378

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/916,347	08/11/2004	Chunhong Hou	22620-3001

CONFIRMATION NO. 8683

OC000000020304988

OC000000020304988

34205
OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

Date Mailed: 09/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of
Mikko Lonnfors et al.
Application No. 10/916,356
Filed: August 11, 2004
Attorney Docket No. **P3596US00**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed October 22, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 30542 has been revoked by the assignee of the patent application on November 9, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria VA 22314

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JUL -1 2005

In re Application of	:	
Jonathan B. Ferrini	:	
Serial No. 10/916,358	:	DECISION ON PETITION
Filed: August 11, 2004	:	TO MAKE SPECIAL
For: COLLAPSIBLE CONTAINER	:	

Applicant's petition, filed August 11, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Marvin H. Kleinberg
Kleinberg & Lerner, LLP
2049 Century Park East, Suite 1080
Los Angeles, CA 90067

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MARVIN H. KLEINBERG
SUITE 1080
2049 CENTURY PARK EAST
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan B. Ferrini	:	
Application No. 10/916,358	:	DECISION GRANTING PETITION
Filed: August 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 458038.15420	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 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 November 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 17, 2006. A Notice of Abandonment was mailed on June 5, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 16, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3781 for appropriate action on the reply received June 12, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 24 2005

In re Application of Alex Cooper Serial No. 10/916,379 Filed: August 10, 2004 For: POLISHING PAD AND METHOD OF PRODUCING THE SAME	: : : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 2, 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.

Frederick R. Schmidt, Director
Technology Center 3700

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Hidehiko Morisada	:	
Application No. 10/916392	:	
Filing or 371(c) Date: 08/12/2004	:	
Attorney Docket Number:	:	
257252US6	:	ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed February 19, 2008. The petition is properly treated under 37 CFR 1.181(a). See, MPEP 711.03(c). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office Action, mailed February 19, 2007. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on May 20, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the present petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 2624, for re-mailing of the Office action and re-setting the period for reply.

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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VINCENT PATENT AGENCY
11-300 EARL GREY DRIVE, SUITE 202
KANATA ON K2T 1C1 CA **CANADA**

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Gordon Douglas Benning, et. al.	:	
Application No. 10/916,398	:	DECISION ON PETITION
Filed: August 12, 2004	:	TO WITHDRAW FROM
Attorney Docket No. 10130	:	RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed February 21, 2010.

The request is **APPROVED**.

The request was signed by Robert A. Vincent on behalf of himself and all attorneys/agents associated with Customer Number 58166. Therefore, Robert A. Vincent and all the attorneys/agents associated with Customer Number 58166 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82).

The request to change the correspondence cannot be accepted since it is not of the first named signing inventor or the intervening assignee that complied with the requirements of 37 CFR 3.73(b)[1]. Thus, all future communications from the Office will continue to be directed to the above listed address until otherwise properly notified by the applicant.

There is an outstanding Office action mailed on December 28, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Lobenn, Inc.
150 Katimavik Rd., Suite 202
Ottawa K2L 2N2 CANADA

[1] 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).

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/916,400	08/12/2004	Hiroshi Nakamori	02860.0817

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

DATE MAILED: November 22, 2006

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) filed on November 7, 2006, 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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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EITAN LAW GROUP
C/O LANDONIP, INC.
SUITE 450
1700 DIAGONAL ROAD
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Betser et al.	:	
Application No. 10/916,413	:	DECISION ON PETITION
Filed: 12 August, 2004	:	
Attorney Docket P-6415-US	:	

This is a decision on the petition filed on 24 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 May, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 17 February, 2006, which set a three (3) month statutory period for reply. The

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed the issue and publication fees.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HANIFY & KING, P.C.
1875 K STREET
SUITE 707
WASHINGTON, DC 20006

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JUN 09 2008

In re Application of	:	
Shiby THOMAS et al.	:	
Application No. 10/916,462	:	DECISION ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. 19111.0132	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 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 October 11, 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 date of abandonment of this application is January 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 a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office of October 11, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050.00 extension of time fee submitted with the petition on April 15, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2165 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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Duane Morris LLP
Suite 700
1667 K Street, N.W.
Washington DC 20006

AUG 26 2005

In re Application of:	:	
James A Dayton, Jr.	:	DECISION ON PETITION
Serial No.: 10/916,467	:	TO MAKE SPECIAL
Filed: August 12, 2004	:	
Attorney Docket No.: **GEN01 005**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed February 25, 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 James A. Dayton, Jr. 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 Hien H. Phan at (571) 272-1606.

Hien H Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

HHP/nmc

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DEC 07 2005

TECHNOLOGY CENTER 3600

GOWLING, LAFLEUR HENDERSON LLP
ONE MAIN STREET WEST
HAMILTON, ON
L8P 4Z5
CANADA

In re application of
John Hosking
Application No. 10/916,489
Filed: August 12, 2004
For: VIBRATION TRANSPORTER FOR HARVESTING FRUIT

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 24, 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 John Hosking indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 11/21/05

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Wang King-Yuan
P.O. Box 487
ChangHua City 500 TW TAIWAN

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Sun-Nan Lo	:	
Application No. 10/916,492	:	DECISION ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. D-9-23	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 24, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 24, 2006. Accordingly, the date of abandonment of this application is July 25, 2006. The Notice of Abandonment was mailed August 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division within ONE MONTH from the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.
This application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Wang Kzng-Yuan**
4F-AZ, No. 787. Jhongming S. Rd.
Taichung City 40255, Taiwan R.O.C

Enclosed: PTOL-85b

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/916,513	08/12/2004	Tsuyoshi Sugita	02860.0816

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

DATE MAILED: November 22, 2006

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) filed on November 7, 2006, 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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

5/20/04

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JAN 18 2008

DON PELTO
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
1300 I STREET, NW
11TH FLOOR EAST
WASHINGTON, DC 20006

In re Application of:	:
John A. Giordano et al.	:
Serial No.: 10/916,534	: PETITION DECISION
Filed: August 12, 2004	:
Attorney Docket No.: 14ME-120932	:

This is in response to the paper filed January 11, 2008. The paper it is being treated as a petition under 37 CFR § 1.181, requesting to invoke supervisory authority of the Director.

BACKGROUND

On October 24, 2005, the examiner mailed a restriction requirement indicating that pending claims 1-158 were to be restricted between Group I, comprising claims 1-79 and Group II, comprising claims 80-158 with reasons for placing said restriction requirement. The examiner additionally required a detailed election of species as well as subspecies and set forth reasoning for the election of species.

On November 2, 2005, applicants filed a response to the restriction requirement of October 24, 2005, electing, with traverse, the invention of Group I, comprising claims 1-79. The applicants additionally elected, with traverse, the species of a) chewable form, b) thiamine, riboflavin, niacinamide, pyridoxine, folic acid, and cyanocobalamin, c) D-alpha tocopheryl acetate, d) ferrous fumarate, and e) a flavorant chosen from natural mixed berry flavor, citric acid, malic acid, vanilla, vanillin, cocoa, chocolate, and menthol as well as f) B complex vitamins which includes Vitamin Bl, Vitamin B2, Vitamin B3, Vitamin B6, Vitamin B9, and Vitamin B12.

On December 13, 2005 the examiner mailed a non-final Office action setting a three month statutory period for reply. At the time of this Office action, claims 1-158 were pending in the application. The examiner considered the applicant's traversal of the restriction requirement. The examiner accepted applicants' election of B-complex vitamins to include Vitamins Bl, Vitamin B2, Vitamin B3, Vitamin B6, Vitamin B9, and Vitamin B12 and indicated that "..the examiner accepts this statement as a declaration of equivalency and the claims will be examined as such." However, the examiner maintained the restriction requirement pertaining to Groups I and II, as well as with regard to the other species and made the restriction requirement FINAL and subsequently withdrew claims 2, 4, 10, 13-16, 21, 23, 32-34 and 80-158 from examination on their merits. The examiner rejected claims 1, 3, 5-9, 11-12, 17-20, 22, 24-31, and 35-79 under

35 U.S.C. 102(b) as being anticipated by deVries et al. (US 6,395,177 B1) and rejected claims 1, 3, 5-9, 11-12, 17-20, 22, 24-31, and 35-79 under 35 U.S.C. 103(a) as being unpatentable over deVries et al. (US 6,395,177 B1).

Applicants filed a preliminary amendment which was received in the Office on December 14, 2005 which included amendments to claim 80 and the addition of new claim 159.

In response to the non-final Office action of December 13, 2005, applicants filed a reply on March 9, 2006 which included remarks, arguments and amendments to claims 1 and 80.

On August 23, 2006, the examiner mailed a non-final Office action setting a three month statutory period for reply. In this Office action, claims 1-159 were pending, claims 2, 4, 10, 13-16, 21,23, 32-34, 80-158 were withdrawn from examination on their merits and claims 1, 3, 5-9, 11, 12, 17-20, 22, 24-31, 35-79 and 159 were rejected under 35 U.S.C. 103(a) as being unpatentable over DeVries et al. (US 6,395,177 B1).

In reply to the non-final Office action of August 23, 2006, applicants filed a response on November 22, 2006 which included remarks, arguments and the addition of new claims 160 and 161.

On February 20, 2007, the examiner mailed a final Office action. At the time of this final Office action, claims 1-161 were pending and claims 2, 4, 10, 13-16, 21, 23, 32-34 and 80-158 were withdrawn from examination on the merits. The examiner rejected claims 1,3, 5-9, 11, 12, 17-20, 22, 24-31, 35-79 and 159-161 under 35 U.S.C. 103(a) as being unpatentable over DeVries et al. (US 6,495,177) and responded to applicants' arguments.

In response to the final Office action of February 20, 2007, applicants filed a reply after-final on April 20, 2007 which included arguments against the examiner's rejection of claims 1, 3, 5-9, 11, 12, 17-20, 22, 24-31, 35-79 and 159-161 under 35 U.S.C. 103(a) as being unpatentable over DeVries et al. (US 6,495,177). No claim amendments were submitted by applicants with this response.

The examiner mailed an Advisory action on May 1, 2007 indicating that "the claims remain obvious in view of the prior art."

On May 21, 2007, applicants filed a Notice of Appeal and concurrently filed a request for a Pre-Appeal Brief Review asking for review and withdrawal of the final Office action of February 20, 2007, as well as allowance of the pending claims.

A Pre-Appeal Brief review panel was held and was attended by Michael Woodward (SPE), Jean Witz (SPE-Quality Assurance Specialist), Robert Wax (SPE-Quality Assurance Specialist) and Sharon Kennedy (Primary examiner). A decision of the Pre-Appeal Brief review panel was mailed to applicants on June 25, 2007 indicating that prosecution of the case was to be reopened and a new Office action was to be mailed.

On September 7, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply and subsequently removed the finality of the previous Office action dated February 7, 2007. In this final Office action, claims 1-161 were pending and claims 2, 4, 10, 13-16, 21, 23, 32-34 and 80-158 remained withdrawn from examination on their merits. The examiner rejected claims 1, 6, 8, 9, 11, 12, 17, 18, 19, 22, 24, 27, 28, 29, 30, 39-44, 46, 48, 49, 51, 52, 66, 68 and 71-79 under 35 U.S.C. 102(b) as being anticipated by Riley et al. (US 5,948,443); rejected claims 1, 3, 5, 6, 7, 8, 9, 11, 12, 17, 18, 19, 20, 22, 24, 26-32, 35, 39-44, 46-51, 65 and 71-79 under 35 U.S.C. 102(b) as being anticipated by deVries et al. (US 6,521,247); rejected claims 45, 53-64, 67, 69 and 70 under 35 U.S.C. 103(a) as being unpatentable over deVries ('247); rejected claim 20 under 35 U.S.C. 103(a) as being unpatentable over deVries '247 in view of Brunnell (US 3,608,083) and rejected claims 20, 25, 36-38, 45, 53-64, 67, 69 and 70 under 35 U.S.C. 103(a) as being unpatentable over deVries ('247). The examiner additionally indicated that claims 159-161 were allowed.

In response to the final Office action of September 7, 2007, applicants filed a reply on October 22, 2007 which included remarks, arguments and the cancellation of claims 1-158, leaving claims 159-161 pending in the application.

On November 20, 2007, the examiner mailed a non-final Office action, setting a three month statutory limit for reply and subsequently removed the finality of the previous Office action dated September 7, 2007. At the time of this final Office action, claims 159-161 were pending in the application. The examiner rejected claims 159-161 under 35 USC § 112 First paragraph "...because the specification [did] not reasonably provide enablement for the composition comprising the beta-carotene without the Vitamin A..."

In response to the non-final Office action of November 20, 2007, applicants filed this petition on January 11, 2008. It appears that the petition 1) implicitly requests the reconsideration of the non-allowance of claims 159-161 considering that the examiner had indicated these claims as being allowable in the final Office action of September 7, 2007, 2) implicitly requests the transfer of this case back to primary examiner Sharon Kennedy and 3) implicitly requests an interview with Sharon Kennedy considering Sharon Kennedy denied a previous interview request by applicants.

DISCUSSION

Applicants state that in a previous Final Office action of September 7, 2007 claims 159-161 were indicated as allowable. Upon further review and re-assessment of the scope of those claims, the examiner made a new rejection over claims 159-161 under 35 USC § 112 first paragraph in a non-final Office action mailed November 20, 2007. Applicants have not argued the merits of that rejection on the record. Without responding to the examiners' rejection on the record or asking for reconsideration of that rejection before the examiner, I consider asking for supervisory review on the allowability of those claims as premature. Further, a request for further review of the allowability of claims 159-161 is not a petitionable issue; but rather, the request is an

appealable issue. Applicants are reminded of the right to the Appeal process concerning substantive issues involving the rejection of claims (see 37 CFR 1.191).

Applicants state that after receiving the non-final Office action of November 11, 2007, an interview with the examiner was requested and the examiner denied the interview. Regardless of applicants' characterization of the comments made by the examiner, the record does not indicate what issues applicants wanted to discuss and present at the interview relative to the rejection of record. It is noted in the letter of January 11, 2008 seeking supervisory review, applicants did not state what issues applicants wanted to discuss and present at the interview relative to the rejection of record. A general statement "requesting allowance" is insufficient. As noted in the MPEP § 713.01 III, "[a]n interview should be had only when the nature of the case is such that the interview could serve to develop and clarify specific issues and lead to mutual understanding between the examiner and the applicants. Thus, the attorney when presenting himself or herself for an interview should be fully prepared to the issues raised in the Office action." I see no impropriety on the examiner's part in denying the interview based on the facts as presented.

Applicants' also comment on the possibility of the application being transferred to another examiner. Applicants' statement regarding an on-going infringement is noted. However, it is pointed out there are multiple related and co-pending applications on this subject matter. While the Office is sensitive to providing timely prosecution, proper examination of the claimed subject matter is paramount. Due to the nature of this application and the related applications, a decision to transfer the application to ensure proper and consistent examination would not be improper.

Applicants also point out some comments made the examiner about SPE Michael Woodward's "reaction" or attention to this application. Regardless of applicants' characterization of the comments made by the examiner, due to the multiple related applications there is a need to ensure proper and consistent examination. Based on these facts, I see no impropriety in a SPE making sure proper and consistent examination is done, and I see no evidence of any improper, enhanced scrutiny.

While I regret the delays in prosecution, based on my review I see no impropriety in the prosecution or in the handling of this application.

DECISION

To the extent that I interpret the issues applicants raise in the letter of January 11, 2008, I see no need to invoke supervisory review of this application or to intervene in the current prosecution.

The implicit request to reconsider the allowability is an appealable issue, not a petitionable one, so that implicit request is denied.

The implicit request to not transfer the application to another examiner is denied. I support the decision of the SPE to transfer the application if he chooses to do so based on the Office's

responsibility to ensure proper and consistent examination of the multiple related co-pending applications.

The implicit request to have an interview is denied because applicants have not reasonably met the limited, but necessary conditions to explain the specific issues to be discussed.

The petition is **DENIED.**

Applicants remain under obligation to reply to the Office action mailed November 20, 2007, within the time period set therein or as extended under 37 CFR1.136(a). Also, applicants may wish to request an interview following the proper procedures outlined in MPEP713.

Should there be any questions about this decision please contact Quality Assurance Specialist/Program Manager Marianne Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Jung-Won Lee	: DECISION ON REQUEST FOR
Patent Number	: 7580034	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1353** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
KITAMURA et al
Application No. 10/916,556
Filed: August 12, 2004
For: METHOD AND APPARATUS FOR LIMITING MANAGEMENT OPERATION OF A STORAGE NETWORK ELEMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on August 4, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 4, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

In re Application of CHANG Application No.: 10/916,568 Filing Date: August 11, 2004 Attorney Docket No.: CHAN3383/CCC (formerly 14794 B (SY0326A6US))	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(B)

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 13, 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 payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement of unintentional delay, the petition states, "It was always applicants' intent to file the Issue and Publication Fees, but it was not filed and the application was unintentionally abandoned." This statement is interpreted as 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 under 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.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of CHANG Application No.: 10/916,568 Filing Date: August 11, 2004 Attorney Docket No.: CHAN3383/CCC (formerly 14794 B (SY0326A6US))	: : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(B)

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 13, 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 payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement of unintentional delay, the petition states, "It was always applicants' intent to file the Issue and Publication Fees, but it was not filed and the application was unintentionally abandoned." This statement is interpreted as 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 under 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.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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STROOCK & STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK NY 10038

In re Application of	:
DONATH	:DECISION ON PETITION
Application No. 10/916,570	:UNDER 37 CFR 1.78(a)(3)
Filed: August 10, 2004	:
Attorney Docket No. 001227/0156	:

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed September 05, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

This nonprovisional application was filed on February 11, 2002 and was pending at the time of filing of this petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

filing receipt.

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 3775 for appropriate action on the amendment filed September 05, 2008, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

VIRGIL E. HAMMOND, III
1227 SPOONER DRIVE
CARSON CITY NV 89706

In re Application of	:	
Hammond, et al.	:	
Application No. 10/916,572	:	ON PETITION
Filed: 25 January, 2005	:	
Attorney Docket No. (None)	:	

This is a decision on a petition filed on 17 April, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers mailed on 25 August, 2005, with reply due absent extension of time on or before 25 October, 2005;
- the instant application went abandoned by operation of law after midnight 25 October, 2005;
- the Office mailed a Notice of Incomplete Reply on 2 November, 2005, but did not reset the reply date;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- Petitioner filed the instant petition on 17 April, 2006, with fee, and, *inter alia*, reply in the form of fees due, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to OIPE for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

CHARLES G. CALL
215 W. HURON ST APT 2
CHICAGO IL 60610-3331

In re Application of
SCHMANDT et al.
Application No. 10/916,577
Filed: 08/11/2004
Attorney Docket No. E-42

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 October 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 18, 2007. A Notice of Abandonment was mailed on May 31, 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 $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 2612 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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CHARLES G. CALL
20 EAST GOETHE STREET, CH1
CHICAGO, IL 60610-2368

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In re Application of	:	
Schmandt et al.	:	
Application No. 10/916,577	:	DECISION ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. E-42	:	

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 March 5, 2008, as required by the Notice of Allowance and Fee(s) Due mailed December 5, 2007. Accordingly, the date of abandonment of this application is March 6, 2008. A Notice of Abandonment was mailed April 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 021705

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

MAR 10 2005

In re Application of:
DAVID H. PARKER
Serial No.: 10/916,612
Filed: August 12, 2004
Attorney Docket No.: **544592000200**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 27, 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 Wayne C. Jaeschke, Jr., on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to James Remenick, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: JAMES REMENICK
POWELL GOLDSTEIN LLP
901 NEW YORK AVENUE, NW
THIRD FLOOR
WASHINGTON, DC 20001-4413

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MAY 17 2007

CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Corinna Sundermann	:
Serial No.: 10/916,633	: PETITION DECISION
Filed: August 12, 2004	:
Attorney Docket No.: 029310.55174US	:

This is in response to the petition under 37 CFR 1.144, filed March 6, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on August 12, 2004, and contained claims 1-20. In a first Office action, mailed October 25, 2006, the examiner required restriction between the inventions set forth in claims 1-20, as follows:

Group I – claims 1-17, in part, drawn to the compounds of formula I wherein variables R^1-R^{11} do not represent and/or are not substituted by heteroaryl or hetercyclyl moieties;

Group II – – claims 1-17, in part, drawn to the compounds of formula I wherein variables R^1 and R^3-R^{11} do not represent and/or are not substituted by heteroaryl or hetercyclyl moieties and R^2 represents pyridyl, 1-phenyl-5-propylpyrazole, benzo[1,3]-dioxole, isoxazole, furane or chromenyl;

Group III – – claims 1-17, in part, drawn to the compounds of formula I directed to compounds not encompassed by Groups I and II;

Group IV – claims 18-19, drawn to methods of use of the compounds of formula I; and

Group V – claim 20, directed to processes of making the compounds of formula I.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds constituted an improper Markush group according to In re Harnish and Ex parte Hozumi in that they do not share a common utility or a substantial structural feature. Groups I-III were indicated as related to Group IV as product and process of use and to Group V as method of making which are different statutory classes. The possibility of

rejoinder of method of making or using claims with allowed elected product claims was also set forth.

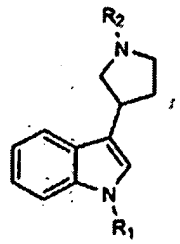
Applicant replied on November 27, 2006, electing the compounds of Group II with traverse and identifying a species for further prosecution. The requirement was traversed for essentially the same reasons as set forth in the petition below.

The examiner mailed a new Office action to applicant on February 2, 2007, acknowledging the election of Group II and the species, but maintaining the requirement. The requirement was not made Final, but is properly petitionable as a repeated action of the examiner. The examiner responded to the traverse by arguing that the various substituents on the pyrrolidine-indole derivatives were classified separately and thus the withdrawn compounds are drawn to non-elected subject matter which differs materially in common structure from that elected. The examiner then rejected claims 16-17 under 35 U.S.C. 112, first paragraph, as lacking enablement. Claims 1-17 were rejected under 35 U.S.C. 102(a) or (e) as anticipated by Tanimoto et al. Claims 1-17 were also rejected under 35 U.S.C. 103(a) as unpatentable over Tanimoto et al. Claims 1-17 were objected to as containing non-elected subject matter.

This petition was filed on March 6, 2007, requesting withdrawal of an improper restriction requirement. A response to the Office action was also filed on March 6, 2007, and addresses the claim rejections, claim 17 being canceled therein.

DISCUSSION

A review of the claims, as filed, shows that they are directed to compounds based on the structure: identified as formula I, a pyrrolidine-indole structure having two basic variables:



Each of variables R^1-R^2 include other defined variables, as needed, from R^3 to R^{11}. The examiner divided the compound claims into three groups based on the various definitions of R, primarily along the lines of non-aromatic versus aromatic substituents.

Applicant argues that the restriction requirement is improper as it "misguidedly" attempts to restrict within a claim and fails to follow proper Markush claim guidelines. Applicant argues that the examiner is focused on the substituent groups rather than the invention as a whole. In sum applicant argues that the Markush group set forth in the claims is proper and restriction of the compounds encompassed thereby is improper.

Although applicant's argument that restriction within a claim is improper has no basis (none of In re Weber, In re Harnish or In re Haas, prohibited restriction within a claim) it is correct with

respect to restriction within a proper Markush group, as here. A proper Markush group is recognized when the alternatives of the group share a common substantial structural feature that is responsible for a common utility shared among the alternatives. Here it is clear that the pyrrolidine-indole structure is a significant common structural feature and it is also clear that the utility – antidepressive or analgesic activity – is directly attributable to it (R^1 can be H and R^2 is one of five closely related structures). In view of this the restriction of the compound claims into three groups was improper and Groups I-III are hereby rejoined.

Applicant then argues that restriction of claims 18-20 (Groups IV and V) from claims 1-17 is improper inasmuch as these methods cannot be practiced without the compounds of claim 1. However these claims have been held withdrawn as directed to different statutory classes of invention (product versus method of making or using) and applicant was properly advised of the possibility of rejoinder if the elected product claims were found allowable. Inasmuch as the product claims have not yet been found allowable, this part of the restriction requirement remains proper and is affirmed.

DECISION

The petition is **GRANTED-IN-PART** as set forth above.

The application will be forwarded to the examiner for consideration of applicants' reply filed March 6, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of Steven Bush, Thomas Butcher, Harry Heymann, Daniel Kerns and Roxanne Skelly Application No. 10/916,642 Filed: August 10, 2004 Attorney Docket No. 006544.00002 Title of Invention: SERVICE LICENSING AND MAINTENANCE FOR NETWORKS	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 12, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor inventors Heymann and Skelly have refused to join in the filing of the above-identified application. The petition attest a copy of the application was sent to the non-signing inventors. The failure of the inventors to respond to the application sufficiently establishes that the non-signing inventors refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
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

Martin MOYNIHAN
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Iryna Sorokulova and Irina Ossipova	:	
Application No.10/916,646	:	DECISION REFUSING STATUS
Filed: August 12, 2004	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 28208	:	
Title: Bacterial Strains, Compositions Including Same and Probiotic Use Thereof	:	

This is in response to the petition under 37 C.F.R. §1.47(a), filed February 3, 2005. This petition is properly treated under 37 CFR §1.47(b) when all inventors have refused to execute the application papers.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on August 12, 2004, without an executed oath or declaration, and naming Sorokulova and Ossipova as joint inventor. Accordingly, on October 4, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, a unsigned declaration and to make timely a two month extension of time. Rule 47 applicant also has submitted $130.00 towards the petition fee, the current petition fee is $200.00. Accordingly deposit account 50-1407 will be charged the $70.00 difference.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (2), (5), and (6).

An Acceptable Oath or Declaration

As to item (2), applicant failed to submit an executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f).

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision 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
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c/o ANTHONY CASTORINA
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ARLINGTON VA 22202

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Iryna Sorokulova and Irina Ossipova	:	
Application No.10/916,646	:	DECISION REFUSING STATUS
Filed: August 12, 2004	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 28208	:	
Title: Bacterial Strains, Compositions Including Same and Probiotic Use Thereof	:	

This is in response to the petition under 37 C.F.R. §1.47(b), filed April 29, 2005.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on August 12, 2004, without an executed oath or declaration, and naming Sorokulova and Ossipova as joint inventor. Accordingly, on October 4, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply. A petition under 37 CFR 1.47 (b) was dismissed on March 15, 2005.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (2).

An Acceptable Oath or Declaration

As to item (2), applicant failed to submit an executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of

47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision 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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ARLINGTON VA 22202

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of
Irina Sorokulova and Irina Ossipova
Application No. 10/916,646
Filed: August 12, 2004
Attorney Docket Number: 28208
Title of Invention: Bacterial Strains, Compositions Including Same And Probiotic Use Thereof

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed July 22, 2005.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Proprietary interest in the application has been established.

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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United States Patent and Trademark Office
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www.uspto.gov

Iryna Sorokulova
122 S. Debardeleben Apt L
Auburn, Alabama 36830

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of
Irina Sorokulova and Irina Ossipova
Application No. 10/916,646
Filed: August 12, 2004
Attorney Docket Number: 28208
Title of Invention: Bacterial Strains, Compositions Including Same And Probiotic Use Thereof

LETTER

Dear Mr. Sorokulova:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a co-inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Martin MOYNIHAN
c/o ANTHONY CASTORINA
SUITE 207
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ARLINGTON VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Irina Ossipova
21 Leningrad Shosse, Apt. 103
Moscow, Russia 125171

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of
Irina Sorokulova and Irina Ossipova
Application No. 10/916,646
Filed: August 12, 2004
Attorney Docket Number: 28208
Title of Invention: Bacterial Strains, Compositions Including Same And Probiotic Use Thereof

LETTER

Dear Mr. Ossipova:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a co-inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Martin MOYNIHAN
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ARLINGTON VA 22202

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DAN M. DELA ROSA, ESQ.
345 E 80TH ST.
SUITE 27H
NEW YORK, NY 10021

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Demars, Robert A.	:	
Application No. 10/916,657	:	ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. 89240.006	:	

This is a decision on the petition under 37 CFR 1.102(d), filed December 29, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section I: Manufacture.

The petition is **DISMISSED**.

Any request for reconsideration should be filed within TWO MONTHS of the date of this decision.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, 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) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

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 requirements set forth above for special status because it lacks (C). Application included the statement, "That the manufacturer makes themselves obligated to manufacture the invention, in the United States *and/or overseas* ..." As stated in (C) above, the invention must be manufactured in the United States or its possessions. The term "and/or overseas" cannot be accepted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.

This matter is being referred to the Technology Center Art Unit 3749 for action in its regular turn.

David Bucci
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

DAN M. DE LA ROSA, ESQ
345 EAST 80TH STREET
SUITE 27H
NEW YORK NY 10021

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MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Demars, Robert A.	:	
Application No. 10/916,657	:	ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. 89240.006	:	

This is a decision on the renewed petition under 37 CFR 1.102(d), filed February 21, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, 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) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, 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 is accompanied by an Affirmation signed by the applicant, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 13 2008

OFFICE OF PETITIONS

CHRISTIE PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

In re Application of
Dong-Jin Park et al
Application No. 10/916,666
Filed: August 11, 2004
Attorney Docket No. 52590/DBP/S1082

ON PETITION

This is a decision on the petition, filed June 12, 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 February 1, 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 2871 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

Mail Date: 04/26/2010

Applicant	: Mikhail Boukhny	: DECISION ON REQUEST FOR
Patent Number	: 7651490	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/916,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Ming Shi	: DECISION ON REQUEST FOR
Patent Number	: 7585546	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/26/2010

Applicant	: Rodney C. Kowallis	: DECISION ON REQUEST FOR
Patent Number	: 7628737	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/916,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **918** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Anthony Edwards
13700 Tahiti Way # 153
Marina Del Rey CA 90292

COPY MAILED
SEP 23 2008

In re Application of :
Edwards :
Application No. 10/916,705 : ON PETITION
Filed: August 12, 2004 :
Attorney Docket No. 15455 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2008 (certificate of mailing date July 23, 2008), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed March 25, 2008. Accordingly, this application became abandoned on June 26, 2008. A Notice of Abandonment was mailed on July 23, 2008.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the March 25, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

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

Paper No. None

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Lei Sun et al.	:	
Application No. 10/916,710	:	DECISION ON PETITION
Filing Date: August 11, 2004	:	UNDER 37 C.F.R. §1.78(A)(3)
Attorney Docket No.: 42P19690	:	
Title: MULTIPLEXED DETECTION OF	:	
ANALYTES IN FLUID SOLUTION	:	

This is a decision on the petition pursuant to 37 C.F.R. §1.78(a)(3), filed September 27, 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 C.F.R. §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 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. 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 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an 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).

Before the petition under 37 C.F.R. §1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 C.F.R. §§1.76(b)(5) and 1.121) to correct the above matters are required.

Any reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.78(a)(3)." 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[1], hand-delivery[2], or facsimile[3].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson for

Ina Lazaris
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Lei Sun et al.	:	
Application No. 10/916,710	:	DECISION ON RENEWED PETITION
Filing Date: August 11, 2004	:	UNDER 37 C.F.R. §1.78(A)(3)
Attorney Docket No.: 42P19690	:	
Title: MULTIPLEXED DETECTION OF	:	
ANALYTES IN FLUID SOLUTION	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed April 16, 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 this petition.

An original petition was filed on September 27, 2006, and was dismissed via the mailing of a decision on March 20, 2007.

This renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 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 C.F.R. § 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 original petition was dismissed as the reference improperly incorporated by reference the prior-filed application.

With this renewed petition, Petitioner has submitted a revised amendment, which incorporates by reference only the application that was incorporated by reference on filing of the application.

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 C.F.R. § 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 C.F.R. §§ 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.

This application is being forwarded to Technology Center Art Unit 1641 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.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone

inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/916,710	08/11/2004	1641	2208	42P19690	64	9

CONFIRMATION NO. 2211

CORRECTED FILING RECEIPT

OC000000025649445

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Date Mailed: 08/31/2007

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)

Lei Sun, Santa Clara, CA;
Xing Su, Cupertino, CA;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/830,422 04/21/2004 ABN
which is a CIP of 10/748,336 12/29/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/916,710

Projected Publication Date: 12/06/2007

Non-Publication Request: No

Early Publication Request: No

Title

Multiplexed detection of analytes in fluid solution

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:
Cutler, et al.	:
Application No. 10/916,712	: DECISION ACCORDING STATUS
Filed: August 12, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. HO-P02775US1	:
For: METHOD AND APPARATUS FOR CONTINUOUS PROCESSING OF PACKAGED PRODUCTS	:

This is in response to the petition under 37 CFR 1.47(a), filed February 11, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventor, Ted LaFleur, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Jan K. Simpson establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Pursuant to petitioners' authorization, deposit account no. 06-2375 will be charged the $200.00 fee associated with filing a petition under 37 CFR 1.47(a).

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 Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TED LAFLEUR
421 GRAND AVENUE
SOUTH PASADENA, CA 91030

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Cutler, et al. :
Application No. 10/916,712 :
Filed: August 12, 2004 : LETTER
Attorney Docket No. HO-P02775US1 :
For: METHOD AND APPARATUS FOR :
CONTINUOUS PROCESSING OF PACKAGED
PRODUCTS

Dear Mr. LaFleur:

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: FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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Alexandria, VA 22313-1450
www.uspto.gov

September 20, 2005

Michael W. Garvey
PEARNE & GORDON, LLP
1801 EAST 9TH STREET
SUITE 1200
Cleveland, OH 44114-3108

Patent No.: **6892748 B2**
Inventor(s): **Marius Robert Junier**
Issued: May 17, 2005
Title: **PLUG VALVE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/916,714	08/12/2004	2125	385	9222.16399-D CIP CON DIV	27	15	2

CONFIRMATION NO. 2229

CORRECTED FILING RECEIPT

OC000000014258061

26308
RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

Date Mailed: 11/01/2004

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)

Jay Qin, Fremont, CA;
Robin Bek, Campbell, CA;
John Gaiser, Mountain View, CA;
Rachel Croft, San Francisco, CA;
Peter Muller, Los Gatos, CA;
David S. Utley, Redwood City, CA;

Assignment For Published Patent Application

Curon Medical, Inc.

Power of Attorney:

Arnold Ericsen–16879
Daniel Ryan III–29243
Joseph Kromholz–34204
John Manion–38957
Daniel Johnson–46204
Laura Dable–46436
Patricia Limbach–50295

Domestic Priority data as claimed by applicant

This application is a DIV of 10/212,311 08/05/2002 PAT 6,783,523
which is a CON of 09/639,910 08/16/2000 ABN
which is a CIP of 09/305,123 05/04/1999 PAT 6,358,245
and is a CIP of 09/574,704 05/18/2000 PAT 6,464,689

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/916,714

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Unified systems and methods for controlling use and operation of a family of different treatment devices

Preliminary Class

700

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months

has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAIL

MAR 25 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

AT&T Legal Department - CC
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

In re Application of:
GILBERT, LANNY
Application Serial No.: 10/916,739
Filed: August 12, 2004
For: **SYSTEMS AND METHODS FOR AUDIO REMINDER MESSAGES**

DECISION
ON PETITION

This is a decision on the petition to withdraw improper holding of abandonment, filed July 11, 2008, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the instant application abandoned and requests withdrawal of the holding of abandonment.

PERTINENT BACKGROUND FACTS

On December 14, 2005 a non-final action was mailed rejecting all pending claims 1-19. A response by applicant was filed on March 14, 2006, wherein claims 1, 7, 11, and 14 were amended and new claim 20 was added. On June 5, 2006 a Final rejection was mailed in response to the March 14, 2006 amendment, wherein pending claims 1-19 were rejected and it was stated that applicant's amendment necessitated the new grounds of rejection. On September 5, 2006, applicant filed an after final amendment and response. On September 28, 2006, an Advisory Action was mailed informing applicant that the after final response has been considered but does not place the application in condition for allowance.

On November 7, 2006, a miscellaneous incoming letter was received by the office indicating an interview between the attorney of record and the examiner took place on November 6, 2006, wherein the status of claim 20 was discussed. Claim 20 was newly added in a response filed March 14, 2006 to the non-final office action mailed December 14, 2005. The final rejection of June 5, 2006 did not address claim 20. The omission was explained to the Examiner and the Examiner agreed that a new office action would be issued addressing claim 20. On May 14, 2008, a Notice of Abandonment was mailed based on applicant's failure to file a proper reply to the Final Office action mailed June 5, 2006. A further reason was also provided which indicated "New action was not mailed prior to expiration of 6 months statutory period; examiner does not have authority to reopen once abandoned."

Petitioner alleges that the Abandonment must be withdrawn before the Examiner can issue a rejection addressing claim 20, which Applicant is entitled to have examined, and which has never been examined.

DECISION

MPEP §706.07(d) Final Rejection, Withdrawal of, Premature [R-5], states in part:

> "If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection. **The finality of the Office action must be withdrawn while the application is still pending. The examiner cannot *>withdraw< the final rejection once the application is abandoned.**" (emphasis added)

A review of the file finds that the interview wherein the examiner agreed that a new office action would be issued addressing claim 20, took place after the expiration of the three month shortened statutory period for reply to the Final Office action. However, the file record fails to show the finality of the office action ever being withdrawn. Since no extensions of time were applied for and the six month maximum period for response has expired, the application became abandoned after midnight on September 5, 2006. Therefore, the examiner was without the authority to withdraw the finality of the Office action as the shortened statutory period had expired and the application was no longer pending without the necessary extension of time. The Office sincerely regrets that this insufficiency was not brought to the attention of applicant's representative at the time of the interview.

Accordingly, while the reason set forth in the Notice of Abandonment mailed May 14, 2008 appeared incorrect to applicant based on the November 6, 2006 Interview, the application stands abandoned for the reasons set forth above.

Accordingly, the petition to withdraw an improper holding of abandonment is **DENIED**.

Applicant may want to consider filing a petition under 37 C.F.R. §1.137 to the Office of Petitions to revive the subject application.

Wanda L Walker

Wanda Walker, Director
Technology Center 2600
Communications

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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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AT&T LEGAL DEPARTMENT – CC
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Application of Lanny Gilbert Application No. 10/916,739 Filed: August 12, 2004 Attorney Docket No. 00224CON2 (BLL-0024-C)	: : : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 5, 2006, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received April 15, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CANTOR COLBURN LLP
20 CHURCH STREET, 222ND FLOOR
HARTFORD, CT 06103-3207

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2 2 AUG 2008

Wells St. John P.S.
601 W. First Avenue, Suite 1300
Spokane, WA 99201

In re Application of Bernd Raetze	:	
Application No.: 10/916,752	:	
Filed: August 11, 2004	:	
Attorney Docket No.: CU16-001	:	DECISION ON PETITION
For: STEERABLE TRANSPORT TROLLEY	:	
	:	
	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed Australian and international applications set forth in the amendment filed October 18, 2007.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

Initially, it is noted that Australian application serial no. PS 0458 and 200295224 are foreign applications, not U.S. nonprovisional as characterized in the petition. As such,

priority is governed under the provisions of 35 U.S.C. 119(a)-(d) and 37 CFR 1.55, not 37 CFR 1.78.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international application designating the U.S. 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 1.78(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, Rev. 2, May 2004, Reference to Prior Application. The reference set forth in the amendment filed October 18, 2007 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i).[1] 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[2] or supplemental application data sheet which sets forth the relationship to the prior-filed international application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

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[1]Entry of this amendment, which was filed under 37 CFR 1.312, is determined by the examiner.

[2] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

This application is being forwarded to Tech Center 3618 for appropriate action on the amendment under 37 CFR 1.312 filed 18 October 2007.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G
BLDG. 321-482
2070 ROUTE 52
HOPEWELL JUNCTION, NY 12533

Mail Date: 04/20/2010

Applicant	: Marie Angelopoulos	: DECISION ON REQUEST FOR
Patent Number	: 7638266	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **898** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAR 28 2008

OFFICE OF PETITIONS

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of	:	
Raetze et al.	:	
Application No. 10/916,816	:	DECISION ON PETITION
Filed: August 11, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CU16-002	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 11, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed application PCT/AU03/00174.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted prior application has not been submitted on petition. The reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

Pursuant to MPEP 201.13 II, a claim for foreign priority does not have to be in any special form; however, in accordance with the Paris Convention and the Patent Cooperation Treaty, the claim for foreign priority cannot be made directly to the applications that were Australian national applications. Applicant must first claim benefit to the PCT application, which PCT would then be able to claim the benefit of the Australian national applications. See in particular MPEP 201.13 II(A) and (F) and 37 CFR 1.55(a).

Furthermore, applicant should note that the present application was filed under 35 USC 111 and not 35 USC 371. As such, the present application is not entitled to the benefits that would be afforded to an application filed under 37 USC 371 and any benefit claim to a foreign application must be made within one-year of the filing of that foreign application. The present application was filed using transmittal form PTO/SB/05 and not PTO-1390 and as stated in MPEP 1893.03(a). If the instructions on filing are unclear that applicant intends to file under 35 USC 371, the application will be treated as an application filed under 35 USC 111(a). Since the present application was filed using transmittal form PTO-05, applicant is not able to claim the benefit of either the PCT application or any of the Australian national applications.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter should be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of	:
Raetze et al.	:
Application No. 10/916,816	: DECISION ON PETITION
Filed: August 11, 2004	: UNDER 37 CFR 1.78(a)(3) & 37 CFR 1.55
Attorney Docket No. CU16-002	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 9, 2008 to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed application PCT/AU03/00174 and for the benefit of two prior file foreign applications.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Petitioner satisfies all of the requirements for a late claim for priority to both the PCT application and the Australian applications.

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 Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 3652 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications

Anthony Knight
Supervisor
Office of Petitions

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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
10/916,816	08/11/2004	3652	1036	CU16-002	22	1

CONFIRMATION NO. 2297

CORRECTED FILING RECEIPT

21567
WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

OC000000033458197

Date Mailed: 12/04/2008

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)

Bernd Raetze, Bridgeman Downs, AUSTRALIA;
Douglas Mayes, Bridgeman Downs, AUSTRALIA;
Robert J. Ellis, Potts Point, AUSTRALIA;
Norman I. Mathers, Bridgeman Downs, AUSTRALIA;

Assignment For Published Patent Application

Tynecat Technologies Pty. Ltd., Banyo, AUSTRALIA

Power of Attorney: The patent practitioners associated with Customer Number 021567

Domestic Priority data as claimed by applicant

Foreign Applications

AUSTRALIA PCT/AU03/00174 02/12/2003
AUSTRALIA PS 0458 02/12/2002
AUSTRALIA 2002 952 422 11/01/2002

If Required, Foreign Filing License Granted: 10/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/916,816**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Transport trolley having pivotable roller housings

Preliminary Class

414

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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DINSMORE & SHOHL LLP
FIFTH THIRD CENTER, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

Mail Date: 04/21/2010

Applicant	: William F. Lauersdorf	: DECISION ON REQUEST FOR
Patent Number	: 7608655	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.