SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 3, 2009

TO SPE OF : ART UNIT 1792 - SPE Timothy H. Meeks.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/937,738 Patent No.: 7,597,941 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

_____
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: _____

_____

_____

_____

_____

_____ 1792

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

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE, KY 40202-3352

Mail Date: 04/21/2010

Applicant	: Mahendra Kumar Sunkara	: DECISION ON REQUEST FOR
Patent Number	: 7597941	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/937,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

In re Application of	:	
Itshack Pe'Er et al	:	
Application No. 10/937,740	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2637OU	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2007 and supplementedon July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of November 30, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1631.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Yaron Mayer
21 Ahad Haam Street
Jerusalem 92151
ISRAEL

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APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Mayer et al.	:	
Application No. 10/937,750	:	DECISION DISMISSING
Filed: September 10, 2004	:	PETITION
Title: SYSTEM AND METHOD FOR MORE EFFICIENT AUTOMATIC IRRIGATION BASED ON A LARGE NUMBER OF CHEAP HUMIDITY SENSORS AND AUTOMATIC FAUCETS	:	

This is a decision on the "Request to correct mistaken filing date in provisional application 10/937,750 of Sep. 7, 2004," filed February 1, 2005.

The petition is **DISMISSED** without consideration on the merits.

Applicants are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. This period is not extendable. See § 1.181(f).

Petitioner states that the above-identified application was sent by EMS express mail on September 79, 2004 and therefore, should be given as filing date the date of sending it, like all other similar applications that are sent by express mail. In support thereof, petitioner submits copies of the EMS mailing label and of the USPS track and confirm record.

37 CFR 1.33(b) provides that:

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 attorney or agent of record appointed in compliance with § 1.34(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

A review of the application as filed reveals that there are three applicants for patent, Yaron Mayer, Al J.C. Baur and Haim Gadassi. However, the petition is signed only by inventor Yaron Mayer. (There is no attorney or assignee of record).

Pursuant to § 1.33(b)(4), any petition must be signed by all of the applicants. Thus, the absence of joint inventors Baur and Gadassi's signatures on the petition precludes consideration on the merits.

However, pro se applicants are reminded that, with regard to the merits of this petition, § 1.10(a)(1) provides that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

Thus, papers are only given as a date of receipt the date of deposit in Express Mail when the paper was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS)(not when sent via deposit with the Israel Postal Authority).

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

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

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

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

This nonprovisional application with a filing date of September 10, 2004, will be examined in Technology Center 3752 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1030

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Carey W. Smith et al :
Application No. 10/937,755 :
Filed: September 8, 2004 :
Attorney Docket No. 42P19042 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 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 November 1, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Fourth month extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 2, 2005.

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
David Terman. :
Application No. 10/937,758 : DECISION ON PETITION
Filed: September 8, 2005 :
Attorney Dkt. No. P1433C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the restriction requirement of October 30, 2006. The restriction requirement set a one (1) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 1, 2006. A Notice of Abandonment was mailed on June 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of response to the restriction requirement and specification, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1635 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dr. Michael Gude
Buchenhoehe 1
Kerpen D-501-69
GERMANY

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Gude :
Application No. 10/937,769 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. N/A :
For: ANALOG TO DIGITAL CONVERTER (ADC)

This decision addresses the letter, filed October 13, 2004 and resubmitted on December 28, 2004, requesting that the Office change the filing date of the above-identified application from September 10, 2004 to September 8, 2004. The correspondence must be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.1.8(2)(i)(A), which states no benefit will be given to a facsimile transmission when filing a national patent application, specification and drawing, or other correspondence for the purpose of obtaining an application filing date.

The petition is **dismissed**.

Until the $400.00 fee associated with filing a petition to the Commissioner under 37 CFR 1.183 is submitted, the merits of the petition will not be addressed.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Michael Gude
Buchenhoehe 1
Kerpen D-501-69
GERMANY

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OFFICE OF PETITIONS

In re Application of :
Gude :
Application No. 10/937,769 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. N/A :
For: ANALOG TO DIGITAL CONVERTER (ADC)

This decision addresses the petition under 37 CFR 1.183, requesting that the Office waive any required rules to prolong the priority period or to change the filing date of the above-identified application in order to claim benefit to a foreign filed application.

The petition is **dismissed**. Any requests for reconsideration should be submitted within two months of the mail date of this decision.

The above-identified application was filed in the Patent and Trademark Office (Office) on September 10, 2004. Petitioner attempted to file the application on September 5, 2004 via facsimile. 37 CFR 1.1.8(2)(i)(A), states no benefit will be given to a facsimile transmission when filing a national patent application, specification and drawing, or other correspondence for the purpose of obtaining an application filing date. Therefore, the September 5, 2004 filing was not accepted by the Office.

The evidence presented indicates that petitioner was aware that a nonprovisional application had to be filed no later than September 8, 2004 in order to obtain the benefits available under 35 U.S.C. 119 of the foreign filed application. Although petitioner knew the importance of obtaining a filing date prior to or of September 8, 2004, there was a failure on petitioner's part to file the application in a manner necessary to insure the desired filing date.

For grant of the relief sought in a petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The "extraordinary circumstances" rationale does not apply in petitioner's situation because

petitioner waited until close to the last day provided by statute under 35 U.S.C. 119(a) for claiming benefit of the foreign application to file a nonprovisional application in the United States. Those who file at the end of a statutory bar year or a priority year do not leave any opportunity to overcome any error which might occur in filing the application. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an application from the consequences of his delay. *See*, *Ex parte Sassin*, 1906 Dec. Comm'r Pat. 205, 206 (Comm'r Pat. 1906) and compare *Ziegler v. Baxter v. Natta*, 159 U.S.P.Q. 378, 379 (Comm'r Pat. 1968) and *Williams v. The Five Platters, Inc.*, 510 F. 2d 963, 184 U.S. P.Q. 744 (C.C.P.A. 1975).

In addition, petitioner states that he mistakenly believed that it was possible to file an application via facsimile transmission. Circumstances resulting from an applicant's failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of extraordinary relief. *See In re Tetrafluor, Inc.*, 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.* 195 USPQ 586, 588 (Comm'r Pats. 1977); *Huston v. Ladner*, 23 USPQ2d 1910 (Fed. Cir. 1992); *Vincent v. Mossinghoff*, 230 USPQ 621, 625 (D.D.C. 1985).

The filing date of the above-identified application remains September 10, 2004.

Petitioner is informed that it is not permissible to waive a statute. Where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. V. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). 35. U.S. C. 199(a) states that , "An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed...." The Office cannot relax the "priority period", as requested by petitioner.

After the mailing of this decision, the application will be returned to Publications Division.

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

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

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

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

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

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

Dr. Michael Gude
Buchenhoehe 1
Kerpen D-501-69
GERMANY

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of :
Gude :
Application No. 10/937,769 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. N/A :
For: ANALOG TO DIGITAL CONVERTER (ADC)

This decision addresses the correspondence received in the Office on December 3, 2006, which is in essence a request for reconsideration of the November 22, 2006 decision dismissing petitioner's request that the Office waive any required rules to prolong the priority period or to change the filing date of the above-identified application in order to claim benefit to a foreign filed application.

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

Petitioner argues that 37 CFR 1.1.8(2)(i)(A), which states no benefit will be given to a facsimile transmission when filing a national patent application, specification and drawing, or other correspondence for the purpose of obtaining an application filing date, is a strange rule because the transmission is obviously reduced to a printed document. Why wouldn't a facsimile be accepted? Part of the reason behind the rule is that the quality of the printed document from a facsimile machine is not always good. Nuances in drawings, particularly, are lost when a facsimile is printed.

With respect to petitioner's argument that the Office should have informed petitioner immediately that the facsimile transmission would not be accorded a filing date, it is an applicant's responsibility to file proper documents. The Office attempts to inform applicants of problems with filings as soon as possible, but an immediate response as to the sufficiency of a filing is not possible, given the volume of correspondence received in the Office each day.

Petitioner next asks whether this application can become a patent, even with a filing date of September 10, 2004. The answer is a resounding yes. A review of the application file reveals that

on January 31, 2007, applicant paid the issue fee and publication fee and submitted a completed PTOL-85(b). Therefore, prosecution is closed and petitioner has done everything required by the Office (to-date) to obtain a patent on the above-identified application.

After the mailing of this decision, the application will be returned to Publications Division for processing into a patent.

Telephone inquiries should 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

RAMINDA U. MADURAWE
882 LOUISE DRIVE
SUNNYVALE, CA 94087

COPY MAILED
DEC 17 2008

In re Application of :
Raminda Udaya Madurawe :
Application No. 10/937,828 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. None :

This is a decision on the petition, filed September 23, 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 Bao Tran 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. If Mr. Tran 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 solely to the address of record.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal or within one (1) month of the Notice of Panel Decision, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A Notice of Abandonment was mailed on September 5, 2008. In response, on September 23, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1]

The application is being referred to Technology Center AU 2826.

[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 inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BAO TRAN
TRAN & ASSOCIATES
6768 MEADOW VISTA CT.
SAN JOSE, CA 95135

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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RAMINDA U. MADURAWE
882 LOUISE DRIVE
SUNNYVALE CA 94087

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Madurawe	:	
Application No. 10/937,828	:	DECISION ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. THREE DIMENSIONAL INTEGRATED CIRCUITS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned October 9, 2009 for failure to timely submit a proper reply to the non-final Office action mailed July 8, 2009. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply to the non-final Office action, (2) the required petition fee, 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.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Tran appearing on the correspondence shall constitute a representation to the United States Patent and Trademark

Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Tran desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Tran, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This application is being referred to Technology Center AU 2826 for appropriate action by the Examiner in the normal course of business on the reply received herewith.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Bao Tran
6768 Meadow Vista Court
San Jose, CA 95135

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

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

Mail Date: 05/18/2010

Applicant	: David R. Lessard	: DECISION ON REQUEST FOR
Patent Number	: 7713260	: RECALCULATION of PATENT
Issue Date	: 05/11/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/937,862	: OF WYETH
Filed	: 09/09/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Glen Gary Lawrence et al	:	
Application No. 10/937,870	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038923-0304	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application No.: 10/937872 : DECISION ON PETITION
Filed: September 10, 2004 : UNDER 37 C.F.R. § 1.48(a)
For: Medical Device for Analyte Monitoring and Drug Delivery

This is a decision on the petition, filed December 14, 2005, to correct inventorship under 37 C.F.R. § 1.48(a).

The petition is **GRANTED**.

Accordingly, the inventors Shaunak Roy, John Howard, and Chengwang Wang have been added to the Application.

Long V. Le
Supervisory Patent Examiner
Patent Examining Art Unit 1641

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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SUITE 500
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SEP 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,524.534	
Mirkin et al.	
Issue Date: April 28, 2009	
Application No. 10/937,877	DECISION ON REQUEST FOR
Filed: September 10, 2004	RECONSIDERATION OF
Attorney Dkt. No. 083847-0257	PATENT TERM ADJUSTMENT
Title: Methods Utilizing	
Scanning Probe Microscope Tips	
and Products Therefor or	
Produced Thereby	

This is in response to the "Request For Reconsideration Of Patent Term Adjustment Under 37 CFR 1.705" filed June 26, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 192 days to 451 days.[1]

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

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

On April 28, 2009, the above-identified application matured into US Patent No. 7,524,534 with a patent term adjustment of 192 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

[1] It is noted that there is a discrepancy in the number of days of patent term adjustment indicated in the instant Request for which patentees assert that they are entitled (i.e. 451 days and 449 days).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth. Patentees assert 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 § 1.703(b) and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), which total 853 days, do not overlap as these periods do not occur on the same day.

Thus, patentees request that the determination of patent term adjustment be increased to a total of four hundred fifty-one (451) days (853-402). However, there is an inconsistency in the total number of days of applicant delay as asserted by patentees in the instant Request (402 days) and the total number of days of applicant delay as shown in the PTA Calculation Sheet (404 days). Specifically, it appears that patentees believe that the period of delay under 37 CFR 1.704(c)(10) should be 10 days, not 12 days. The Office has reviewed the record and has concluded that the period of reduction of 12 days (March 9, 2009 to March 20, 2009) is warranted.

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).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In 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, September 10, 2004 to April 28, 2009. This 596 days of pendency over three years is the relevant period for considering overlap. 257 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 596 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three

years to issue the patent and 257 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 257 days and then another 596 days. The greater period, 596 days, is the actual number of days issuance of the patent was delayed by the Office. All but 339 days of the periods pursuant to 37 CFR §§1.702(a) and 1.702(b) overlap. Accordingly, at issuance, the Office entered 339 additional days of patent term adjustment pursuant to 37 CFR 1.702(b) for a total Office delay of 596 days.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 192 days (257 + 339 - 404).

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 Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:
Behmoiras, Erbey, Castner, Kennedy,	:
and Reno	: DECISION ACCORDING STATUS
Application No. 10/937,879	: UNDER 37 CFR 1.47(a)
Filed: 10 September, 2004	:
Attorney Docket No. 026083-00037	:

This is in response to the petition filed under 37 CFR 1.47(a) on 15 February, 2005.

The petition is **GRANTED**.

The above-identified application was filed on 10 September, 2004, without an executed oath or declaration. Accordingly, on 15 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for its late filing, and additional claim fee(s).

In response, on 15 February, 2005, petitioners filed a one (1) month time extension as well as declaration naming Ralph J. Behmoiras, William C. Erbey, Arthur J. Castner, Christopher Kennedy, and Keith S. Reno as joint inventors, signed by joint inventors Erby, Kennedy, and Reno on behalf of themselves and joint inventors Behmoiras, and Castner. The present petition was also filed. On 3 March, 2005, petitioners additionally filed a declaration signed by joint inventor Castner.

As Castner has now signed the declaration, the petition is moot as to joint inventor Castner, and will be considered only in reference to non-signing joint inventor Behmoiras.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Ralph J. Behmoiras. However, the non-signing inventor failed to return a signed declaration.

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

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

The application will be referred to Technology Center Art Unit 3624 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 03-05

Ralph J. Behmoiras
4290 NW 66th Place
Boca Raton FL 33496

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of
Behmoiras et al.
Application No. 10/937,879
Filed: 10 September, 2004
For: METHOD AND SYSTEM FOR VENDOR MANAGEMENT

Dear Mr. Behmoiras:

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

ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 16 2005

ARENT FOX PLLC
1050 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

In re application of
Ralph J. Behmoiras et al.
Application No. 10/937,879
Filed: September 10, 2004
For: METHOD AND SYSTEM FOR VENDOR MANAGEMENT

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on May 02, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

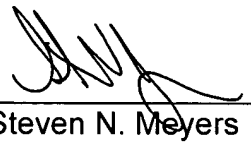
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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



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

SNM/pav: 05/09/05

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Behmoiras et al.	:	DECISION ON PETITION
Application No. 10/937,879	:	TO WITHDRAW HOLDING
Filed: 10 September, 2004	:	OF ABANDONMENT
Atty Dcket No. 026083-00037	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment" filed on 26 May, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-Office action requiring restriction mailed on 28 July, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed 22 May, 2006.

Petitioners assert that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 28 October, 2005, acknowledging receipt of a response to the restriction requirement. The postcard identifies the application by first named applicant's last name, application number, filing date, attorney docket number, and invention title. A copy of the Response was included with this petition.

It is noted that the postcard miscaptions the application number as "10/938,879". Upon a review of the Official file, the reply, which also miscaptions the application number as above, filed on 28 October, 2005, has been located in the file of Application No. 10/938,879.

In view of the above, there was sufficient identifying information to match the paper filed on 28 October, 2005, with the proper application file.

Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the proper application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to Technology Center Art Unit 3624 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081215

DATE :

TO SPE OF : ART UNIT

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/JANET L ANDRES/
Supervisory Patent Examiner.Art Unit 1625

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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004-2400

Mail Date: 04/20/2010

Applicant	: Yoshinobu Ichikawa	: DECISION ON REQUEST FOR
Patent Number	: 7607900	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/937,892	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED

SEP 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,385,039 :
Issue Date: June 10, 2008 :
Application No. 10/937,938 :
Inventor: Prell : DECISION ON PETITION
Filed: September 11, 2004 : PURSUANT TO
Attorney Docket No. 31817-I-A : 37 C.F.R. § 1.182
(073586.0103) :
Title: METHODS AND :
COMPOSITIONS FOR REGULATING :
IMIDAZOLINE RECEPTORS :

This is a decision on the petition filed on June 17, 2009, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 10/937,938 matured into U.S. Patent No. 7,385,039 on June 10, 2008. The electronic records further reveal that on June 10, 2008, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, contending that the Letters Patent has been either lost or never received. On July 16, 2009, a supplement to this petition was received, requesting that the petition fee be charged to a Deposit Account.

The petition fee has been charged to Petitioner's Deposit Account.

The petition is **GRANTED.**

The Publishing Division is directed to issue a duplicate Letters Patent. The Publishing Division will be made aware of this decision in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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THEODORE M. GREEN
AKERMAN SENTERFITT
222 LAKEVIEW AVENUE
SUITE #400
WEST PALM BEACH, FL 33401-6183

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
N. Satish Chandra et al : DECISION GRANTING
Application No. 10/937,966 : PETITION
Effective Date: September 9, 2004 :
Attorney Docket No. 7668-45 :

This is a decision on the petition under 37 CFR 1.10(i), filed October 7, 2004, requesting that the above-identified application be accorded a filing date of September 9, 2004.

The USPTO is aware that due to a series of hurricanes on September 3, 2004, a number of post offices in Florida, Alabama, Mississippi, Louisiana, Georgia, Puerto Rico, U.S. Virgin Islands, West Virginia, Ohio, Pennsylvania, Maryland, and Virginia were suspended.

The evidence is convincing that applicants attempted to deposit the application as "Express Mail" with the U.S. Postal Service on September 9, 2004, but due to a postal emergency, the package was refused by the USPS. In addition, applicants promptly filed the petition, a copy of the original correspondence, and a statement which states that the application papers would have been deposited on September 9, 2004, and accorded that date as the "date-in," but for the designated interruption in the "Express Mail" service of the USPS.

The USPTO published a notice in the Official Gazette on October 19, 2004 that provides guidance in situations like this one, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1287 Off. Gaz. Pat. Office 168 (October 19, 2004).

Since petitioner has supplied a showing in compliance with the October 19, 2004 notice, the instant application file is entitled to a filing date of September 9, 2004, and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

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

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

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PATENT
89287.0005
Express Mail Label No. ED 254489653 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: SCHREFF, H. Joshua, *et al.* Serial No: Not Yet Assigned Filed: September 10, 2004 For: SELF-CONTAINED TEMPERATURE-CHANGE CONTAINER ASSEMBLIES WITH MULTIPLE BARRIER PENETRATORS	Art Unit: Not Yet Assigned Examiner: Not Yet Assigned

PETITION TO MAKE SPECIAL
(ACCELERATED EXAMINATION)

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

Sir:

Applicants petition to have this application made special and to have the application examined according to the accelerated examination procedure set forth in MPEP 708.02 (VIII).

(A) Fee The Commissioner is hereby authorized to charge the applicable petition fee of $130.00 in 37 CFR 1.17(h) in accordance with the fee transmittal sheet and the credit card authorization form submitted with this petition.

(B) Single Invention All claims currently pending in this application are directed to a single invention.

09/13/2004 TBESHAH1 00000048 10937970
02 FC:1460 130.00 OP

(C) Pre-Examination Search A pre-examination search was made in the following classes and subclasses:

Class	Subclass
62	4
123	263.01, 263.05, 263.06, 263.07, 263.08 and 263.09
206	219 and 222
426	88, 113 and 394

(D) References One copy of each of .the following references deemed most closely related to the subject matter of the claims is enclosed. These references are also listed on an Information Disclosure Statement accompanying this application.

U.S. Published Applications	First Named Inventor
2002/0129610	Searle
2003/0205224	Kolb
2003/0041854	Sabin
2004/0065315	Fish

U.S. Patents	First Named Inventor
5,628,304	Freiman
4,793,323	Guida
6,601,577	Bouskila
6,338,252	Calderaio
6,539,935	Ichikawa
6,029,651	Dorney
6,564,558	Seymour
6,351,953	Scudder
6,178,753	Scudder
5,979,164	Scudder
5,555,741	Oakley

5,392,762	Hsu
4,823,769	Semaan
3,970,068	Sato

(E) Detailed Discussion The application includes 20 claims. Claim 1 is the sole independent claim. The subject matter of claim 1 and the claims that depend from it is patentable over the references for at least the following reasons.

Searle 2002/0129610

Searle discloses a self-heating can 10. Can 10 defines an internal cavity 22 holding contents such as a beverage, and an external cavity 20 at the bottom of can 10 separated from cavity 22 by a wall 16. Cavity 20 comprises a first chamber 26 filled with calcium oxide and a second chamber 32 filled with water. The first and second chambers are separated by a breakable membrane 24. Elongate piercing members 42 extend from a closure 30 underneath second chamber 32. When a closure 30 is depressed, members 42 pierce membrane 24 to allow the water and calcium oxide to mix and cause an exothermic reaction.

Searle is fundamentally different from applicants' invention, as recited in claim 1, in that the heating cavity 20 of Seale is mounted underneath and is surrounded by the cavity 22 holding the contents to be heated (or cooled). Hence, the contents are essentially heated from the inside out. Applicants' claim 1, conversely, recites a configuration in which the mixing chamber at least partially surrounds the inner container. Hence, when the separator separating the internal volumes is pierced and the reagents in those volumes mix, the reaction heats or cools the contents within the inner container from the outside in.

Kolb 2003/0205224

Kolb discloses a thermic module 1 for a self-heating container 3. Thermic module 1 comprises an upper cup 10 filled with a first chemical reactant 45 and a lower cup 15 filled with a second chemical reactant 46. The upper and lower cups are separated by a breakable barrier 19. An end cap 22 is mounted underneath the

lower cup such that an actuator 23 may penetrate breakable barrier 19 when force is applied to an actuation button 24. Actuator 23 comprises a center post 38 with a sharp piercing point 35 formed at its top. Fins 39 extend from center post 38, at least some of which have "sharp cutting edges" 36 formed at their tops. Other fins have "spreading edges" 37 formed at their tops.

Kolb does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, and a plurality of penetrators on the movable member, each of which produces a single opening spaced apart from the openings caused by the other penetrators. Instead, it teaches a single penetrator from which extend fins having cutting edges. Accordingly, when Kolb's actuator 23 penetrates barrier 19, it will not produce a pattern of single spaced holes. The combination of the piercing point 35 and the cutting edges 36 will result instead in a much larger, continuous breach of barrier 19. Kolb states in paragraph 42 that "it is preferable to have the entire breakable barrier give away". This is what applicants avoid by their inventive configuration. Additionally, as with Searle, the chamber containing the contents to be heated or cooled surrounds the thermic module. Applicants' claim 1 recites a configuration in which the reaction chamber at least partially surrounds the inner container that holds the contents to be heated.

Sabin 2003/0041854

Sabin discloses a disposable heat pack internally divided into a first zone 112, a second zone 114, and a third zone 116. A first frangible separator 118 separates the first and second zones, and a second frangible separator 120 separates the third zone from the first and second zones. In a static condition, first zone 112 contains a fuel and second zone 114 contains an oxidizing agent. When first frangible separator 118 is compromised, the fuel and the oxidizing agent from the first and second chambers contact each other to cause an exothermic chemical reaction and an increase in temperature and internal pressure.

Sabin does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, and a plurality of penetrators on the movable member, each of which produces a single opening spaced apart from the openings

caused by the other penetrators. As described and claimed, this hole pattern is advantageous in that the flow rate of the liquid reagent through the holes is controlled, which guards against an overly vigorous reaction inside the mixing chamber.

Fish 2004/0065315

Fish discloses a reaction vessel 30 constructed of a flexible material. It is described as being used in combination with a package for containing an article such as moist wipes, towels, gloves, etc. It includes a reaction chamber 32 enclosing a first reactant 38, and a reaction chamber 34 containing a second reactant 40. The chambers are separated by a frangible seal 36. Pressure is applied to vessel 30 by squeezing, pressing or twisting, which causes the seal to break and the reactants to mix.

Fish does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, and a plurality of penetrators situated on the movable member, each of which produces a single opening spaced apart from the openings caused by the other penetrators.

Freiman 5,628,304

Freiman discloses a self-heating container 10 comprising a first chamber 20 containing water, which is separated from a second chamber 30 containing anhydrous calcium chloride by a frangible membrane 70. A serrated cutting device 90 extends from the bottom 80 of first chamber 20 and cuts through membrane 70 when the bottom 80 is depressed. Freiman describes membrane 70 as preferably having a series of fracture lines 71 (FIG. 3), so that membrane 70 breaks into small fragments upon contact with cutting device 90, thereby aiding in the mixing of the reactants.

Freiman does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, in which the movable member carries a plurality of penetrators, each of which produces a single opening spaced apart from the openings caused by the other penetrators, so that the mixing rate is limited by the

size of the openings. Freiman teaches instead that Freiman's membrane 70 should be broken apart entirely to yield a maximum reaction rate.

Guida 4,793,323

A self heating container 1 comprises a bottom compartment 11, which contains a liquid reactant, and which is separated by an aluminum rolled section 6 from a compartment 7 that contains a solid reactant. A breaking member 10, when pushed, breaks through the rolled section 6 by a 5-20 mm depth to completely break rolled section 6 and to prevent rolled section 6 from becoming obstructed or partially torn. A reaction results, which heats the contents of metallic container 3.

Guida does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, and a plurality of penetrators on the movable member, each of which produces a single opening spaced apart from the openings caused by the other penetrators, so that the mixing rate is limited by the size of the openings. Instead, the shape of Guida's breaking member 10 dictates that membrane rolled section 6 will be completely detached to yield a maximum reaction rate.

Bouskila 6,601,577

Bouskila discloses a container assembly 10 with a lower compartment 40 containing a salt compound 90 and a water compartment 50, separated by a partition 80. The bottom 31 of lower compartment 40 is flexible and has an upwardly extending annular central divider 42 with a sharp upper edge 44 for piercing partition 80 when pressure is applied to bottom 31. As illustrated in FIG. 4, when annular divider 42 ruptures partition 80, a large annular hole 81 is formed that allows the salt and water to mix. Container assembly 10 must then be shaken vigorously (20 to 30 shakes) to generate the full exothermic reaction to heat the contents 70 of cup 60.

Bouskila does not teach, as recited by claim 1, a movable member situated opposite a reagent separator, and a plurality of penetrators on the movable

member, each of which produces a single opening spaced apart from the openings caused by the other penetrators.

Calderaio 6,338,252

Calderaio discloses a heat transfer container 10 with a reaction vessel 18 surrounded by a product body 16. Reaction chambers 22 and 24 contain reactants and are separated by a penetrable barrier 26. An activation pin 42 is mounted to an elastic container bottom 40. The pin is pressed upward to break barrier 26, which allows the reactants to mix.

The reaction vessel of Calderaio is mounted underneath and is surrounded by the product body 16, which holds the contents to be heated. The contents are thus heated essentially from the inside out. Applicants' claim 1, conversely, recites a configuration in which a mixing chamber at least partially surrounds the inner container inside which the contents will be heated or cooled. Hence, when the separator between the internal volumes is pierced and the reagents in those volumes mix, the resulting reaction heats or cools the contents within the inner container from the outside in. Calderaio, moreover, does not teach a movable member with a plurality of members that produces spaced apart holes in the separator.

Ishikawa 6,539,935

Ishikawa discloses a package 1 for warming food. Package 1 includes a tank 4 that contains a liquid such as water or salt water and which is closed by a sealing member 18. Package 1 also includes a block 14 of a heat generating material such as magnesium powder. To generate heat, tank 4 is removed from package 1, inverted and pressed against projections 7 that extend from package 1. This pierces sealing member 18 so that liquid spills from tank 4 onto block 14 to generate heat.

Ishikawa does not teach, as recited by claim 1, a reagent separator separating two internal volumes, and a movable member situated opposite the reagent separator with penetrators that penetrate the separator.

Dorney 6,029,651

Dorney discloses a hot cup 10 enclosing a heat generating fluid such as sodium acetate solution. A flexible metallic trigger 50 at the bottom of the cup is provided with upwardly extending ribs that, when flexed, activate the fluid to generate heat.

Dorney does not teach, as claim 1 requires, a reagent separator that separates two internal volumes, and a movable member situated opposite the reagent separator with penetrators that penetrate the separator.

Seymour 6,564,558

Seymour discloses a flexible container 10 with inner and outer walls defining an internal chamber 16. Chamber 16 contains chemical pouches 15, 17 and 19. Container 10 is squeezed to rupture the pouches, and the chemicals within the pouches combine to produce an endothermic or exothermic reaction.

Seymour does not teach, as claim 1 requires, a reagent separator that separates two internal volumes, and a movable member situated opposite the reagent separator with penetrators that penetrate the separator.

Scudder 6,351,953 ("Scudder '953")

Scudder discloses a container 10 with a thermic module 14 at its lower end. Depressing an outer actuator button 46 urges projections 56 through a barrier 52, which actuates module 14 to heat a beverage 18 held by container 10. An inner actuator button 24 moves inward in response to continued depression of outer button 46, which causes the distal end of prong 26 to puncture a reactant barrier 30. This allows water 32 to mix with a solid reactant 38 to produce an exothermic or endothermic reaction.

Scudder does not teach, as recited by claim 1, a movable member situated opposite a reagent separator and provided with a plurality of penetrators, each of which produces a single opening spaced apart from the openings caused by the other penetrators. Additionally, Scudder's chamber, which contains the contents 18

to be heated or cooled, surrounds the thermic module 14. Applicants' claim 1 recites a configuration in which the reaction chamber at least partially surrounds the contents to be heated.

Scudder 6,178,753 ("Scudder '753")

Scudder '753 is conceptually similar to Scudder '953. In Scudder '753, however, a pushrod 26 is used to breach a barrier 32 to start the reaction. Claim 1 distinguishes over Scudder '753 for at least the same reasons set forth with respect to Scudder '953.

Scudder 5,979,164 ("Scudder '164")

Scudder '164 is conceptually similar to Scudder '753 and Scudder '953 in that a thermic module 14 at the bottom of a container body 10 heats a beverage 12 when the module is activated. An actuator disc 22 at the bottom of thermic module 14 is depressed, causing prongs 24 to move axially and to spread radially apart to facilitate complete puncturing of a barrier 46, which allows water 36 and solid chemical 38 to mix and produce heat.

Applicants' claim 1 recites a configuration in which the reaction chamber surrounds the contents to be heated, heating the contents from the outside in. Scudder '164 has an opposite configuration in which the beverage 12 to be heated surrounds thermic module 14, and hence is heated from the inside.

Oakley 5,555,741

A refrigerant capsule 30 and a dispersal vessel 21 are located at the bottom of a container 10 and separated by a sealing element 32. A cap 20 at the bottom of container 10 is pressed upward, which causes a perforation member 26 to perforate sealing element 32. A pressurized liquid refrigerant inside capsule 30 rapidly evaporates and expands into dispersal vessel 21, which cools the beverage inside container 10 by conduction.

Oakley does not teach, as recited by claim 1, a movable member situated opposite a reagent separator comprising a plurality of penetrators, each of which

produces a single opening spaced from the openings caused by the other penetrators.

Hsu 5,392,762

A beverage can heating device 1 includes a hollow bottom cover 103 filled with water and sealed with a thin plastic film 1031, and an inner cylinder 1023 having a bottom opening covered by a detachable cap 104 with pointed teeth 1042 facing plastic film 1031. The space between inner cylinder 1023 and container body 101 is filled with a chemical material 2 such as quicklime. When a beverage can 3 is inserted into inner cylinder 1023 and pressed down, cap 104 is disconnected and forced through plastic film 1031 (FIG. 6).

Hsu does not teach, as claim 1 requires, a movable member situated opposite a reagent separator and a plurality of penetrators, each of which produces a single opening spaced apart from the openings caused by the other penetrators, and wherein the separator remains in place during mixing so that the mixing rate is limited by the size of the openings.

Semaan 4,823,769

Semaan describes a self-heating food system 10 in which a housing 20 contains a food receptacle 14 above a reaction chamber 16. Reaction chamber 16 contains a water ampule 36 and quicklime 34. A rigid rod 18 is located between receptacle 14 and chamber 16. Pushing down on food receptacle 14 results in deformation of housing 20 and a twisting and downward action of rod 18, which ruptures the ampule 36 to start the reaction.

Semaan does not teach, as claim 1 requires, a movable member situated opposite a reagent separator and a plurality of penetrators, each of which produces a single opening spaced apart from the openings caused by the other penetrators.

Sato 3,970,068

A first partition 13 defines heat generating compartments B and C at the bottom of a container 11. Pressing a bottom cover 19 upward urges a needle

member 23 to break through a second partition 16, which allows water in compartment C and quicklime in compartment B to mix and warm the food or beverage contained in compartment A.

Sato does not teach, as claim 1 requires, a movable member situated opposite a reagent separator and a plurality of penetrators, each of which produces a single opening spaced apart from the openings caused by the other penetrators. Additionally, Sato's compartment A, which contains the contents to be heated or cooled, surrounds the thermic compartments B and C. Applicants' claim 1 recites a configuration in which the reaction chamber at least partially surrounds the contents to be heated.

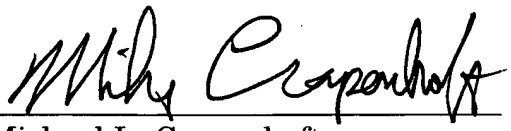
Conclusion

Applicants submit that this petition satisfies all prerequisites for accelerated examination, and respectfully request same. Applicants believe the claims to be allowable over the art found in the pre-examination search for at least the reasons set forth above, and therefore request early allowance of this application. The Examiner is cordially invited to telephone the undersigned in Los Angeles, California at (323) 878-0229 if the Examiner believes that such a call might serve in any way to advance the prosecution of this application.

The Commissioner is hereby authorized to charge any deficiency in payment and requested to credit any overpayment to the credit card account named in the accompanying credit card authorization.

Respectfully submitted,

Date: September 10, 2004

By: 

Michael L. Crapenhoft
Registration No. 37,115
Attorney for Applicants

3352 Bennett Drive
Los Angeles, California 90068
Telephone: 323-878-0229

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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Jae Hong Ryu, et al. :
Application No. 10/937,978 :
Filed: September 9, 2004 :
Attorney Docket No. 2013P211 :

ON PETITION

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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/04/2010

Applicant	: Myles Wakayama	: DECISION ON REQUEST FOR
Patent Number	: 7636007	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/937,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1105** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 21, 2006

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/937995 Patent No.: 7,006,016 B1

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: BKY

Renfrod Basine
SPE

2819
Art Unit

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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Christian Brulle-Drews, et al	:	
Application No. 10/937,998	:	DECISION ON PETITION
Filed: September 9, 2004	:	TO WITHDRAW
Attorney Docket No. P03076US HI	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

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

A review of the file record indicates that the power of attorney to Harman-Brinks Hoffman Chicago, Brinks Hofer Gilson & Lione, has been revoked by the assignee of the patent application on June 25, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL
INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

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SAN RAMON CA 94583-0806

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OFFICE OF PETITIONS

In re Application of :
Chen, et. al : DECISION ON PETITION
Application No. 10/938,003 :
Filed: September 10, 2004 :
Docket No.: T-6393 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 17, 2007.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit an appeal brief in response to the Notice of Appeal submitted May 8, 2006. Notice of Abandonment was mailed January 31, 2007.

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

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again

abandoned in favor of the continuation application 11/627,593, filed January 26, 2007.

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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APR 09 2008

OFFICE OF PETITIONS

In re Application of :
Everett H. Schwartzman :
Application No. 10/938,027 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 7799-101/10700474 :

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

It is noted that the person signing the instant petition is not an attorney of record in the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Billy A. Robbins appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 15, 2007. A Notice of Abandonment was mailed on July 11, 2007. On July 19, 2007, the present petition was filed.

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JAMES D. IVEY
3025 TOTTERDELL STREET
OAKLAND CA 94611-1742

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OFFICE OF PETITIONS

In re Application of	:	
Lvovsky et al.	:	
Application No. 10/938,030	:	DECISION GRANTING PETITION
Filed: September 11, 2004	:	
Attorney Docket No. GE.0011	:	

This is a decision on the petition, filed January 10, 2005, requesting that the above-identified application be accorded a filing date of September 11, 2004, with Figure 1 described in the specification as part of the original disclosure.

On September 11, 2004, applicants filed the above-identified application. On November 10, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of September 11, 2004, and advising applicants that Figure 1 appeared to have been omitted.

In response, on January 10, 2005, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 6 sheets of drawings on September 11, 2004. Additionally, applicants submitted Figure 1 with the present petition.

Upon review of the record, Figure 1, deposited on September 11, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 11, 2004, included Figure 1, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 1, was complete on filing and will be granted a filing date of September 11, 2004.

Accordingly, the petition is granted and the application will be accorded a filing date of September 11, 2004, with Figure 1 as part of the original disclosure.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. No petition fee is necessary. The $400.00 petition fee[1] paid on January 10, 2005, is unnecessary and, as such, is refundable. Applicants may request a refund of the $400.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicants' request.

The Office of Initial Patent Examination is directed **to accord the application a filing date of September 11, 2004**, using Figures 2-6 submitted on that date, and Figure 1 submitted on January 10, 2005.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1]The Office finance records indicate that applicants submitted a $130.00 petition fee on January 10, 2005. The correct amount due at the time of filing the petition was $400.00. Therefore, applicants' Deposit Account was charged the difference owed in the amount of $270.00.

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Michael L. Crapenhoft
3352 Bennett Drive
Los Angeles, California 90068

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AUG 25 2005

Director's Office
Group 3700

In re Application of :
Schreff, H. Joshua, et al. :
Serial No. 10/938,038 : DECISION ON PETITION
Filed: September 10, 2004 : TO MAKE SPECIAL

For: SELF-CONTAINED TEMPERATURE CHANGE CONTAINER ASSEMBLIES WITH INTERNAL STEAM CONDENSORS

Applicant's petition, filed September 10, 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
(571) 272-3750

rt: 8/25/05

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Valeo Climate Control Corp.
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Carine Paumier et al :
Application No. 10/938,055 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. TFR0224 : 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 05 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak attorney/agent of record on behalf of himself.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc : Thomas P. Liniak
Liniak, Berenato & White
6550 Rock Spring Drive, Ste. 240
Bethesda, MD 20817

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WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI
20333 SH 249, SUITE 600
HOUSTON, TX 77070

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OFFICE OF PETITIONS

In re Application of	:	
Louis Lien et al	:	
Application No. 10/938,062	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. 211-0017US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 27, 2005, which required the submission of $790 to complete the basic filing fee, an executed oath or declaration, and a $130 surcharge fee. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply to the Notice of January 27, 2005, (2) the petition fee of $1,500, and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of January 27, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. BOX 726
HAMPDEN ME 04444-0726

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,286,809	:	
FRIESEN et al.	:	LETTER REGARDING PATENT
Issue Date: October 23, 2007	:	TERM ADJUSTMENT AND
Application No. 10/938,073	:	NOTICE OF INTENT TO ISSUE
Filed: September 10, 2004	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 4764	:	

This letter is in response to the "GOOD FAITH" REQUEST FOR REVIEW OF PTA DETERMINATION, filed October 29, 2007, and resubmitted on April 16, 2009. Pursuant to patentees' duty of good faith and candor to the Office, patentees 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 determination of patent term adjustment (PTA) is **GRANTED**.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **three hundred ninety-six (396) days**.

On October 23, 2007, the above-identified application matured into U.S. Patent No. 7,286,809, with a revised patent term adjustment of 432 days. On October 29, 2007, and again on April 16, 2009, patentees submitted the instant comment. Patentees direct the Office's attention to the filing of the Supplemental Declaration

on September 18, 2007, after the mailing of the notice of allowance.

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

It is undisputed that patentees filed the Supplemental Declaration on September 18, 2007, after the mailing of the notice of allowance. The Office did not address the Supplemental Declaration before the issuance of the patent on October 23, 2007. Thus, the period of adjustment set forth in § 1.702 should have been reduced by the lesser period of 36 days, the number of days beginning on the date the Supplemental Declaration was filed, September 18, 2007, and ending on the date of the patent issued, October 23, 2007. See 37 CFR 1.704(c)(10)(i). Accordingly a period of reduction of 36 days will be entered.

In view thereof, the patent should have issued with a revised patent term adjustment of **three hundred ninety-six (396) days** (432 days of Office delay - 36 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in

order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred ninety-six (396) 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

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,286,809 B2

DATED : Oct. 23, 2007

INVENTOR(S) : Friesen 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 (432) days

Delete the phrase "by 432 days" and insert – by 396 days--

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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In re Application of	:	
Mu-Hyun Kim et al	:	
Application No. 10/938,080	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 52989/DBP/S1082	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 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 September 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of :
Peixuan Guo :
Application No. 10/938,085 :
Filed: September 10, 2004 : ON PETITION
For: MOLECULAR NANOMOTOR :

This is a decision on the Petition Under 37 CFR 1.53(e), filed July 18, 2005, requesting the above-identified application be accorded a filing date of September 10, 2004, including page 70 of the specification.

The application was filed on September 10, 2004. On May 18, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") stating, *inter alia*, that the application had been accorded a filing date; however, page 70 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that page 70 of the application was originally filed with the application on September 10, 2004, and was received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 74 consecutively numbered pages of specification in the above-identified application by this Office on September 10, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 74 consecutively numbered pages of specification in the above-identified application by this Office on September 10, 2004. Applicant has also re-filed page 70 of the specification.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of page 70 of the specification, filed with the instant petition on July 18, 2005, will be used for examination purposes.

The petition fee has been refunded to deposit account 13-4895 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 10, 2004, and an indication that page 70 of the specification was included among 74 consecutively numbered pages of specification filed on September 10, 2004, using page 70 of the specification filed with the instant petition on July 18, 2005.

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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P.O. BOX 581415
MINNEAPOLIS MN 55458

Applicant: Guo
Appl. No.: 10/938,085
Filing Date: September 10, 2004
Title: MOLECULAR NANOMOTOR
Attorney Docket No.: 290.00340130
Pub. No.: US 2005/02666416 A1
Pub. Date: December 1, 2005

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OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on January 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 on the front page of the publication, as the benefit claim to application No. 10/660,132 does not include the filing date of that application.

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

The error in the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the benefit claim on the front page of the publication is not a material mistake as the application number is listed on the front page and the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The error in the benefit claim on the front page of the publication is not a material mistake because it does not 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

[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).

of a patent. Since, the first line of the specification contains the proper benefit claim, one can read and understand the content of the application and properly use the patent application publication as a prior art reference.

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

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IRVINE CA 92618-3731

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OFFICE OF PETITIONS

In re Application of
Mikihiro Fujimoto
Application No.: 10/938089
Filing or 371(c) Date: 09/10/2004
Attorney Docket Number: 10003160US01

DECISION ON
PETITION

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181," filed December 7, 2007.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed April 19. 2007. The Office communication set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned June 20, 2007. A Notice of Abandonment was mailed November 16, 2007.

The present petition

Applicant files the present petition and asserts that the Examiner informed Applicant that the Examiner would withdraw the Office communication and that Applicant was not required to take any action with respects to the Office communication.

Applicable Law Rules and MPEP

The applicable statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such

> shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

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).

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

This section of the statute is further clarified in Office rule 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply must be both complete and proper as the condition of the application may require.

As provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Applicant is reminded that all business with this Office must be conducted in writing. The applicable rule, 37 CFR 1.2 states:

> 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.

Analysis

Applicant asserts that the Examiner informed Applicant that the Examiner would withdraw the Office communication and that Applicant was not required to take any action with respects to the Office communication. The MPEP 711.03(c), explaining unavoidable delay, proves instructive. It states:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). (Emphasis supplied).

While this section refers to a final Office action, the principal is equally applicable to an Ex Parte Quayle Action. The applicable statute and rule do not differentiate between a final and a non-final Office action. The law states

> Upon failure of the applicant to prosecute the application within six months after **any**

> action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto.... (Emphasis supplied).

The rule similarly states:

> If an applicant of a patent application fails to reply within the time period provided under § 1.134[1] and § 1.136, the application will become abandoned unless an Office action indicates otherwise

Here, Applicant failed to file a reply to the Office communication.

Here, there is no disagreement as to the sufficiency of the reply, because no timely or proper reply was filed. Applicant's contentions involve the cause of the abandonment, to wit, whether the Examiner was going to withdraw the Office communication? Since no timely or proper reply to the Office action was filed, the application is abandoned. As stated in the MPEP: Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable."

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

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[1] 37 CFR 1.134 states: "An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed." It does not differentiate as to the Office action.

Attn: Office of Petitions

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

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

In re Application of	:	
Mikihiro Fujimoto	:	
Application No.: 10/938089	:	DECISION ON
Filing or 371(c) Date: 09/10/2004	:	PETITION
Attorney Docket Number: 10003160US01	:	

This is a decision in response to the "renewed Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181," filed February 15, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed April 19. 2007. The Office communication set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned June 20, 2007. A Notice of Abandonment was mailed November 16, 2007.

A petition to withdraw the holding of abandonment, filed December 7, 2007, was dismissed in a Decision mailed February 6, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

Applicant files the petition and Amendment in response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2838 for processing of the response.

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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ON PETITION

In re Application of
Gary R. Ignatin
Application No. 10/938,095
Filed: September 10, 2004
Attorney Docket No. 15326US02

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 28, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was purchased. Accordingly, the date of abandonment of this application is September 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2614 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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BERGHOFF LLP
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CHICAGO IL 60606

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JUL 13 2010

OFFICE OF PETITIONS

In re Application :
Groat, et al. :
Application No. 10/938,097 : PATENT TERM ADJUSTMENT
Filed: September 10, 2004 :
Dkt. No.: 03-327-N :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed March 23, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is 366 days, not 105 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar 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 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.

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].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, 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 application file 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 the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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.

OIPE
APR 04 2005

PATENT
DOCKET NO.: 00985.00.0077

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Philip J. Winters

Serial No.: 10/938,100

Filed: September 10, 2004

Title: FORCED AIR SYSTEM AIR FILTER

Group Art Unit: 1724

Confirmation No. 4720

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

CERTIFICATE OF MAILING

I hereby certify that this Petition To Make Special Because Of Actual Infringement is being deposited with the United States Postal Service by First Class Mail, postage pre-paid, on this date, in an envelope addressed to:

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

Michael J. Turgeon, #39,404 — 3/31/05 Date

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT
(37 C.F.R. § 1.102 AND M.P.E.P. § 708.02)

Applicant hereby petitions to make this application special because of actual infringement.

1. **Accompanying material:** Accompanying this petition is:

   (a) Statement of Facts in Support of Petition to Make Special Because of Actual Infringement; and

   (b) A Statement by Attorney in Support of Petition to Make Special Because of Actual Infringement

2. **Fee:** Authorization is hereby made to charge the amount of $130.00 to Deposit Account No. 22-0259 and to charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

04/05/2005 AWONDAF1 00000022 220259 10938100
01 FC:1464 130.00 DA

CHICAGO/#1342442.1

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUL 2 1 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL J. BURNHAM
JENKENS & GILCHRIST
SUITE 2600
225 WEST WASHINGTON STREET
CHICAGO IL 60606-3418

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FEB 1 6 2005

OFFICE OF PETITIONS

In re Application of
Darryl W. Hughes
Application No. 10/938,101
Filed: September 10, 2004
Att'y Docket No. 47079-00267USPT

: DECISION GRANTING PETITION

This is a decision on the petition filed January 31, 2005, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application mailed December 7, 2004, requesting that the above identified application be accorded a filing date of September 10, 2004.

On September 10, 2004 the application was filed.

On December 7, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition and 7 sheets of drawings, were filed. Petitioners argue that the drawings were filed with the other application papers on September 10, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of September 10, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, drawings, was supplied with the present petition. Petitioner has also supplied copies of the drawings. Petitioner requests that the application, including the drawings, be accorded a filing date of September 10, 2004.

Upon review, the drawings purportedly deposited on September 10, 2004 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 10, 2004, included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 7 sheets of drawings, was complete on filing and entitled to a filing date of September 10, 2004.

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

The Notice of Incomplete Nonprovisional Application mailed December 7, 2004, is withdrawn. Therefore, the petition fee in the amount of $130.00 will be credited back to deposit account no. 10-0447.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of September 10, 2004, using the application papers filed on September 10, 2004 and the drawings supplied on January 31, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of Kraus :
Application No. 10/938,111 : Decision on Petition
Filing Date: September 10, 2004 :
Attorney Docket No. 28506/38697A :

This is a decision on the petition under 37 CFR 1.181, filed October 24, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Appeal was filed May 14, 2007.

A Notice of Abandonment was mailed October 10, 2007. However, the maximum extendabel deadline to file an Appeal Brief or Request for Continued Examination (RCE) had not expired. Specifically, an Appeal Brief or RCE could be filed as late as December 14, 2007.

A RCE and request for a four-month extension of time were timely filed on October 31, 2007. Therefore, the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3683 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED
JAN 25 2010

In re Application of	:	
Richardson et al.	:	DECISION ON PETITION
Application No. 10/938,132	:	TO WITHDRAW
Filed: September 10, 2004	:	FROM RECORD
Attorney Docket No. 110950-139023	:	

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Al AuYeung, on behalf of all practitioners of record who are associated with Customer Number 25943.

All attorneys/agents associated with the Customer Number 25943 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

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
10/938,132	09/10/2004	P. Dean Richardson	110950-139023

CONFIRMATION NO. 2285

POWER OF ATTORNEY NOTICE

25943
Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Date Mailed: 01/22/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/09/2009.

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

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAR 0 2 2007

OFFICE OF PETITIONS

SANDIA CORPORATION
PO BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

In re Application of :
Christopher J. Cornelius et al :
Application No. 10/938,137 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. SD-7565 :

This is a decision on the petition, filed March 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 September 19, 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 1711 will consider the request for continued examination under 37 CFR 1.114 and the petition under 37 CFR 1.48(a) submitted on February 28, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 2, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/938,137**

Applicant(s) : Christopher J. Cornelius et al
Application No. : 10/938,137
Filed : September 10, 2004

The above-identified application has been assigned Patent No. 7,186,790 and an issue date of March 6, 2007.

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 March 6, 2007:

"All reference to Patent No. 7,186,790 to Christopher J. Cornelius et al of New Mexico for SULFONATED POLYPHENYLENE POLYMERS appearing in the Official Gazette of March 6, 2007 should be deleted since no patent was granted."

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

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SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

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OCT 1 0 2007

OFFICE OF PETITIONS

In re Application of :
Cornelius et al. :
Application No. 10/938,137 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. SD-7565.1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Steinke et al.	:	
Application No. 10/938,138	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. 021830-000110US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/938143	09/10/2004	Lutnick	CF-89 CIP

FISH & NEAVE LLP
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

DATE MAILED: November 29, 2004

PETITION DECISION

Dear Applicant:

The petition for PG Pub replacement drawings received by the U. S. Patent and Trademark Office is **granted**. The drawings will be included for patent publication.

Telephone inquiries should be directed to The Office of Pre-Grant Publication at 703 605-4283.

Kathleen King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ropes & Gray LLP
Patent Docketing 39/361
1211 Avenue of the Americas
New York, NY 10036-8704

COPY MAILED

JUL 21 2008

In re Application of	:	
Howard W. Lutnick, et al.	:	
Application No. 10/938,143	:	DECISION ON PETITION
Filed: September 10, 2004	:	TO WITHDRAW
Attorney Docket No. 03-1089CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

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

A review of the file record indicates that the power of attorney to Ropes & Gray LLP has been revoked by the assignee of the patent application on April 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dean P. Alderucci**
Cantor Fitzgerald, L.P.
110 East 59th Street (6th floor)
New York, NY 10022

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

DEC 18 2009

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

In re Application of:
Howard W. Lutnick et al.
Application No. 10/938,143
Filed: September 10, 2004
For: TRADING APPLICATION PROGRAM INTERFACE

DECISION ON PETITION FILED UNDER 37 CFR 1.181

This is in response to the petition filed under 37 CFR 1.181(a)(1) and (3) received November 17, 2009. The petition is being treated, pursuant to 37 CFR 1.144, as a petition from the requirement for restriction.

The petition is **DISMISSED.**

A review of the application reveals that a restriction requirement was mailed August 7, 2008. A reply to the restriction requirement, including an amendment introducing new claim 149, was received on November 7, 2008. However, applicant failed to elect an invention for examination as required in the restriction requirement. Accordingly, a Notice of Non-Compliant Amendment was mailed January 5, 2009. A response was received on May 19, 2009. The response includes an amendment cancelling claims 1-149 and introducing new claims 150-186. Applicant again failed to elect an invention for examination as required in the restriction requirement mailed August 7, 2008. A Notice of Abandonment was mailed June 23, 2009.

37 § 1.143 Reconsideration of requirement.

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

37 § CFR 1.144 Petition from requirement for restriction.

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181)

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

It is noted that in the reply to restriction requirement received November 17, 2009, Petitioner states "[a]pplicant is unable to make an informed election." The mere fact that applicant disagrees with the restriction requirement or deems that the restriction requirement is incomplete, does not dissolve applicant of the requirement to indicate a provisional election, as required by 37 CFR 1.143.

The non-compliant notice mailed January 5, 2009 states that "Applicant is given **one month**, or thirty days (30), whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following:...a non-final amendment. **Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quyale* action." Since the non-compliant amendment received November 7, 2008 was a non-final amendment, extensions of time under 37 CFR 1.136(a) were available to the applicant. Thus, a response was not due until July 5, 2009 (with a five month extension of time). Therefore, the application was prematurely abandoned by the examiner on May 21, 2009. Accordingly, the Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

Upon review of the restriction requirement in making the decision to dismiss the instant petition, it is deemed that the restriction requirement was improper. In the restriction requirement, the examiner set forth inventions I-VIII, each directed to a trading system. The examiner indicated that "the inventions are distinct, each from another because each group is related as a subcombination with every other group disclosed as useable together in a single combination." Each of the independent claims recite at lest one computer (e.g., "one or more programmed computers"). In order for the inventions to be properly grouped as subcombinations useable together in a single combination, there must exist a trading system comprising at least two computers, one from each subcombination. However, a review of the specification indicates that the invention is a

single trading system, wherein the system comprises at least a single programmed computer coupled to the workstation. Although the computer may be programmed to perform different functions, the system consists of a single computer. Accordingly, inventions I-VIII are not restrictable as subcombinations useable together in a single combination and the restriction requirement is withdrawn.

Since Applicant timely filed an amendment in response to the January 5, 2009 Notice of Non-Compliant Amendment, claims 1-149 are hereby cancelled and claims 150-186 are currently pending. The application will be returned to the examiner to reopen prosecution for consideration of claims 150-186.

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

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MOTOROLA INC
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

COPY MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re :
Simpson, et al. : LETTER
Application No. 10/938,149 :
Filed: September 10, 2004 :
Attorney Docket No. CE13719JDP :

This is a decision on petition under 37 CFR 1.182, filed June 9, 2009, seeking a corrected filing receipt, which is being treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

The corrected filing receipt is enclosed.

As no petition fee was required, the $130 petition fee has been refunded to Deposit Account No. 50-2117.

The application is being forwarded to Group Art Unit 2617 for consideration of the RCE, filed June 9, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/938,149	09/10/2004	2617	900	CE13719JDP	15	3

CONFIRMATION NO. 5163

CORRECTED FILING RECEIPT

24273
MOTOROLA, INC
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

Date Mailed: 06/25/2009

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)

Floyd D. Simpson, Lake Worth, FL;
Stephen P. Emeott, Rolling Meadows, IL;
Brian K. Smith, Wellington, FL;
Timothy J. Wilson, Rolling Meadows, IL;

Power of Attorney: The patent practitioners associated with Customer Number 24273

Domestic Priority data as claimed by applicant

This application is a CIP of 10/674,984 09/30/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/938,149**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ENHANCED PASSIVE SCANNING

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

Paper No. None

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

COPY MAILED

MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Thomas R. Perry et al. :
Application No. 10/938,160 : DECISION ON PETITION UNDER
Filed: September 10, 2004 : 37 C.F.R. §1.182
Attorney Docket No. 105984-0823 :
Title: GRANULAR MANAGEMENT OF :
NETWORK RESOURCES :

This is a decision on the petition under 37 C.F.R. §1.182, filed February 4, 2005, requesting that the above-identified application be accorded a filing date of September 10, 2004, with Figures 9b-d and 11e-f as part of the original disclosure of the application.

The application was deposited on September 10, 2004. However, on November 2, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that replacement drawings would be required. The notice further indicated that it appeared as though the application was deposited without Figures 9b-d and 11e-f. The notice set a two-month period for response.

Three months later, the instant petition was filed, along with replacement drawings (including Figures 9b-d and 11e-f), a one-month extension of time, and a copy of the notice. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Although Petitioner has not set forth that the figure was included on filing, Petitioner contends that it was 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 specification indicates that the instant application is a continuation-in-part of application 09/614,187 and the Utility Patent Application Transmittal sheet indicates 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 September 10, 2004. However, Figures 9b-d and 11e-f submitted with the instant petition will not be entered.

If Petitioner desires for the missing page to be included, he should submit this page 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.

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.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 10, 2004, using only the application papers filed on that date.

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

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

1 See MPEP 608.02(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 18 2006

OFFICE OF PETITIONS

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of :

Geun Eog Ji et al. :
Application No. 10/938,162 : DECISION ON PETITION
Filed: September 10, 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 July 17, 2006.

The request is **APPROVED**.

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

The request was signed by Y. Rocky Tsao on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Geun Eog Ji**
5-201 Imgwang Apt.
Bangbae-dong, Seocho-gu
Seoul, Korea

cc: **Mr. Ju Yeon Lee**
21st Century Patent & Law Firm
5F., Seil Bldg. 727-13, Yoksam-dong
Gangnam-Gu, Seoul 135-080
Korea

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JUN 13 2005

RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, MI 48304-0610

In re application of
Troy R. Reed :
Application No. 10/938,166 : **DECISION ON REQUEST**
Filed: September 10, 2004 : **FOR WITHDRAWAL OF**
For: VEHICLE CARGO BED EXTENDER HAVING A PIN LOCK ASSEMBLY : **ATTORNEY**

This is a decision on the request filed on January 07, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to Bliss McGlynn, P.C. was submitted to the United States Patent and Trademark Office on January 28, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed February 28, 2005.

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

SNM/pav: 05/31/05

cc:
Gerald E. McGlynn, III
Bliss McGlynn, P.C.
2075 West Big Beaver Road
Suite 600
Troy, MI 48084

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/15/09

Patent No. :7296455
Inventor(s) :Max W. Durney
Issued :11/20/2007
Title : TOOL SYSTEM FOR BENDING SHEET MATERIALS AND METHOD OF USING SAME
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claims 8, 13, 16, 29,21, 25 is printed in accordance with the record please show evidence of supporting data or amendment that was filed. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

MORGAN LEWIS & BOCKIUS LLP
ONE MARKET, SPEAR STREET TOWER
SANFRANCISCO, CA 94105

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/31/09

TO SPE OF : ART UNIT 3725 Ross Dana

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/938170 Patent No.: 7296455

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

H. Riley

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: Do not enter changes to claims 8, 13, 20 or 25. Original claims state "engaged".

Ok to enter the changes to Claims 16 and 21.

Claim 16, antecedent basis is to "material" verses "metal".

Claim 21, antecedent basis to "material" and proper use of "a" verses "said".

/Dana Ross/ 3725

SPE **Art Unit**

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Valeo Climate Control Corp.
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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AUG 30 2006

OFFICE OF PETITIONS

In re Application of :
Louis LACROIX :
Application No. 10/938,175 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. TFR0247 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Amelia Au
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Geron/Finnegan Henderson LLP
901 New York Avenue , NW
Washington DC 20001

In re Patent No. 7,494,982
Issued: February 24, 2009
Application No. 10/938,184
Filed: September 9, 2004
Dkt. No.: 07681.0057-00000

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 22, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 238 days to 555 days. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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

The above-identified application matured into U.S. Pat. No. 7,494,982 on February 24, 2009. The patent issued with a patent term adjustment of 238 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees request reconsideration of the patent term adjustment and reference the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert entitlement to a patent term adjustment of 555 days (428 days under 37 CFR 1.702(a) + 309 days under 37 CFR 1.702(b) – zero overlapping days - 182 days of applicant).

Patentees assert that the period of delay accrued under 37 CFR 1.702(a) is 428 days. Patentees calculation of adjustment fails to acknowledge the adjustment of 25 days pursuant to 37 CFR 1.702(a)(2) in connection with the mailing of the final Office action on November 5, 2007.

Patentees further assert that the period of applicant delay is 182 days and not 215 days. Patentees contest the reduction of 33 days in connection with the drawings and amendment filed December 22, 2008. Patentees assert that the total period of delay in connection with drawings and amendment is 32 days and not 33 days and 32 days.

A review of the record reveals that the correct period of applicant delay is 32 days, as argued by patentees. In accordance with 37 CFR 1.704(c)(10), the reduction commenced December 22, 2008, the date that the drawings and amendment were filed, and ended January 22, 2009, the date that a response thereto was mailed.

Further review of the record reveals that the Office neglected to assess a reduction of 81 days in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement (IDS) submitted October 2, 2008. The reduction commenced July 15, 2008, the day after the date that the initial reply was filed, and ended October 2, 2008, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of issuance of the patent, the correct period of applicant delay was 263 days (61 days pursuant to 37 CFR 1.704(b); 59 days pursuant to 37 CFR 1.704(b); 30 days pursuant to 37 CFR 1.704(b); 81 days pursuant to 37 CFR 1.704(c)(8); and 32 days pursuant to 37 CFR 1.704(c)(10)).

Patentees further request an additional adjustment of 309 days under 37 CFR 1.702(b). The 309 days is based on the application having been filed September 9, 2004 and the request for continued examination (RCE) having been filed July 14, 2008.

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.

The Office asserts that as of the time of submission of the request for continued examination (RCE) on July 14, 2008, the application was pending three years and 309 days. The Office agrees that prior to the filing of the RCE, certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 453 days is correct. At issue is whether patentees should accrue an additional 309 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 453 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 309 day period overlaps with the 453 day period of examination delay. Patentee's 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).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In 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, September 9, 2004, to July 14, 2008, the date on which the RCE was filed. Prior to the filing of the RCE, the Office accorded 453 of patent term adjustment for the Office failing to respond within specified time frames during the pendency of the application. All of the 309 days for Office delay in issuing the patent overlap with the 453 days of examination delay. The Office did not delay 453 days and also delay an additional 309 days.

The 309 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 453 days attributable to the grounds specified in 37 C.F.R. § 1.702(a). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

Thus, at the time of issuance, the patent was entitled to an adjustment of 190 days (453 days of adjustment less 263 days of applicant delay).

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 190 days.

The correspondence address indicated on the application for patent term adjustment differs from that contained in the official record. If practitioner desires to receive correspondence at an address other than that contained in the record, the appropriate change of correspondence address documentation should be submitted. All future correspondence concerning this patent will be directed to the address contained in the record until proper instruction to the contrary is received.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

CC: Leslie A. Mooi
Geron Corp.
230 Constitution Dr.
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,494,982 B2
DATED	:	February 24, 2009
INVENTOR(S)	:	Gryaznov, 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 238 days

Delete the phrase "by 238 days" and insert – by 190 days--

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OFFICE OF PETITIONS

Geron/Finnegan Henderson LLP
901 New York Avenue , NW
Washington DC 20001

In re Patent No. 7,494,982
Issued: February 24, 2009
Application No. 10/938,184
Filed: September 9, 2004
Dkt. No.: 07681.0057-00000

: CORRECTED DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This decision corrects the decision mailed September 28, 2009 in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 22, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 238 days to 555 days. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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

The above-identified application matured into U.S. Pat. No. 7,494,982 on February 24, 2009. The patent issued with a patent term adjustment of 238 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees request reconsideration of the patent term adjustment and reference the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert entitlement to a patent term adjustment of 555 days (428 days under 37 CFR 1.702(a) + 309 days under 37 CFR 1.702(b) – zero overlapping days - 182 days of applicant).

Patentees assert that the period of delay accrued under 37 CFR 1.702(a) is 428 days. Patentees calculation of adjustment fails to acknowledge the adjustment of 25 days pursuant to 37 CFR 1.702(a)(2) in connection with the mailing of the final Office action on November 5, 2007.

Patentees further assert that the period of applicant delay is 182 days and not 215 days. Patentees contest the reduction of 33 days in connection with the drawings and amendment filed December 22, 2008. Patentees assert that the total period of delay in connection with drawings and amendment is 32 days and not 33 days and 32 days.

A review of the record reveals that the correct period of applicant delay is 32 days, as argued by patentees. In accordance with 37 CFR 1.704(c)(10), the reduction commenced December 22, 2008, the

date that the drawings and amendment were filed, and ended January 22, 2009, the date that a response thereto was mailed.

Further review of the record reveals that the Office neglected to assess a reduction of 80 days in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement (IDS) submitted October 2, 2008. The reduction commenced July 15, 2008, the day after the date that the initial reply was filed, and ended October 2, 2008, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of issuance of the patent, the correct period of applicant delay was 262 days (61 days pursuant to 37 CFR 1.704(b); 59 days pursuant to 37 CFR 1.704(b); 30 days pursuant to 37 CFR 1.704(b); 80 days pursuant to 37 CFR 1.704(c)(8); and 32 days pursuant to 37 CFR 1.704(c)(10)).

Patentees further request an additional adjustment of 309 days under 37 CFR 1.702(b). The 309 days is based on the application having been filed September 9, 2004 and the request for continued examination (RCE) having been filed July 14, 2008.

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.

The Office asserts that as of the time of submission of the request for continued examination (RCE) on July 14, 2008, the application was pending three years and 309 days. The Office agrees that prior to the filing of the RCE, certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 453 days is correct. At issue is whether patentees should accrue an additional 309 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 453 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 309 day period overlaps with the 453 day period of examination delay. Patentee's 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).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In 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, September 9, 2004, to July 14, 2008, the date on which the RCE was filed. Prior to the filing of the RCE, the Office accorded 453 of patent term adjustment for the Office failing to respond within specified time frames during the pendency of the application. All of the 309 days for Office delay in issuing the patent overlap with the 453 days of examination delay. The Office did not delay 453 days and also delay an additional 309 days.

The 309 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 453 days attributable to the grounds specified in 37 C.F.R. § 1.702(a). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

Thus, at the time of issuance, the patent was entitled to an adjustment of 191 days (453 days of adjustment less 262 days of applicant delay).

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 191 days.

The correspondence address indicated on the application for patent term adjustment differs from that contained in the official record. If practitioner desires to receive correspondence at an address other than that contained in the record, the appropriate change of correspondence address documentation should be

submitted. All future correspondence concerning this patent will be directed to the address contained in the record until proper instruction to the contrary is received.

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: Draft Certificate of Correction

CC: Leslie A. Mooi
Geron Corp.
230 Constitution Dr.
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,494,982 B2
DATED	:	February 24, 2009
INVENTOR(S)	:	Gryaznov, 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 238 days

Delete the phrase "by 238 days" and insert – by 191 days--

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JUL 29 2010

OFFICE OF PETITIONS

Geron/Finnegan LLP
901 New York Avenue, NW
Washington DC 20001

In re Patent No. 7,494,982 :
Gryaznov et al. : DECISION UPON REMAND AND
Issue Date: February 24, 2009 : RECONSIDERATION OF
Application No. 10/938,184 : PATENT TERM ADJUSTMENT
Filed: September 9, 2004 : AND NOTICE OF INTENT
Attorney Docket No. 07681.0057-00000 : TO ISSUE CERTIFICATE OF CORRECTION
Title: Modified Oligonucleotides for Telomerase Inhibition :

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 four H hundred seventy-four(474) 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 four hundred seventy-four (474) 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 Fries

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,494,982

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Gryaznov 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 xxx days

Delete the phrase "by xxx days" and insert – by 532 days--

Day : Wednesday

PALM INTRANET

Date: 7/28/2010
Time: 14:13:57

PTA Calculations for Application: 10/938184			
Application Filing Date:	09/09/2004	PTO Delay (PTO):	453
Issue Date of Patent:	02/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	215
Post-Issue Petitions:	0	Total PTA (days):	474
PTO Delay Adjustment:	236		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	07/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
105	07/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	238		
100	10/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
97	09/28/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
96	09/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		81	
95	09/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	33		
90.5	02/04/2009	PTA 36 MONTHS			
90	02/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
89	01/22/2009	EXPORT TO FINAL DATA CAPTURE			
88	01/21/2009	FINISHED INITIAL DATA CAPTURE			
87	01/21/2009	DISPATCH TO FDC			
86	01/22/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
85	12/22/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
84	12/22/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		32	86
83	12/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
82	12/22/2008	WORKFLOW - DRAWINGS FINISHED		33	
81	12/23/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
80	12/23/2008	ISSUE FEE PAYMENT VERIFIED			
79	12/23/2008	ISSUE FEE PAYMENT RECEIVED			
78	12/11/2008	WORKFLOW - QUERY REQUEST - FINISH			
77	12/10/2008	TC RETURN TO PUBS			
		MAIL PUB OTHER MISCELLANEOUS			

76	12/10/2008	COMMUNICATION TO APPLICANT			
75	12/10/2008	PUB OTHER MISCELLANEOUS COMMUNICATION TO APPLICANT			
74	11/21/2008	RESPONSE TO REASONS FOR ALLOWANCE			
73	11/17/2008	WORKFLOW - QUERY REQUEST - BEGIN			
72	11/13/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
71	10/27/2008	EXPORT TO INITIAL DATA CAPTURE			
70	11/06/2008	MAIL NOTICE OF ALLOWANCE			
69	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	10/21/2008	ISSUE REVISION COMPLETED			
64	10/21/2008	DOCUMENT VERIFICATION			
63	10/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	10/14/2008	NOTICE OF ALLOWABILITY			
61	10/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	07/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	10/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	10/08/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
57	10/07/2008	CORRESPONDENCE ADDRESS CHANGE			
56	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	08/28/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
54	07/14/2008	REFERENCE CAPTURE ON IDS			
53	07/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	07/14/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
51	07/14/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
50	07/31/2008	DATE FORWARDED TO EXAMINER			
49	07/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
48	07/31/2008	DATE FORWARDED TO EXAMINER			
47	07/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		30	42

46	07/31/2008	DISPOSAL FOR A RCE / CPA / R129			
45	07/14/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	03/14/2008	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
41	03/06/2008	EX PARTE QUAYLE ACTION			
36	02/27/2008	DATE FORWARDED TO EXAMINER			
35	02/05/2008	AMENDMENT AFTER FINAL REJECTION			
34	11/05/2007	MAIL FINAL REJECTION (PTOL - 326)	25		25
33	10/29/2007	FINAL REJECTION			
32	12/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	06/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	08/15/2007	DATE FORWARDED TO EXAMINER			
29	08/09/2007	SUPPLEMENTAL RESPONSE		59	25
28	06/11/2007	REFERENCE CAPTURE ON IDS			
27	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	06/28/2007	DATE FORWARDED TO EXAMINER			
25	06/11/2007	RESPONSE AFTER NON-FINAL ACTION		61	20
24	06/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/22/2006	REFERENCE CAPTURE ON IDS			
21.7	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/11/2007	MAIL NON-FINAL REJECTION	428		-1
19	01/08/2007	NON-FINAL REJECTION			
18	06/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	11/18/2005	CORRESPONDENCE ADDRESS CHANGE			
15	02/11/2005	APPLICATION RETURN FROM OIPE			
14	02/11/2005	APPLICATION RETURN TO OIPE			
13	02/11/2005	APPLICATION DISPATCHED FROM OIPE			

12	02/11/2005	APPLICATION IS NOW COMPLETE			
11	01/18/2005	ADDITIONAL APPLICATION FILING FEES			
10	01/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	01/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
8	02/04/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	11/19/2004	SEQUENCE ERRORS			
5	11/10/2004	CLEARED BY L&R (LARS)			
4	10/15/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/15/2004	CASE CLASSIFIED BY OIPE			
2	09/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/938,202 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. T-5344 :
For: HIGHLY ACTIVE SLURRY
CATALYST COMPOSITION

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

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

A final Office action was mailed on November 8, 2005. This application became abandoned for failure to file a proper follow-up submission after a Notice of Appeal and two month extension of time were filed on March 27, 2006. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no proper follow-up submission being filed, this application became abandoned on May 28, 2006. A Notice of Abandonment was mailed on January 31, 2007.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/627,734.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the application will be returned to Files Repository.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: PENNY L. PRATER
6001 BOLLINGER CANYON ROAD
SAN RAMON, CA 94853

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HOLLYWOOD FL 33022-2480

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
HOFBECK, et al. :
Application No. 10/938,207 : DECISION GRANTING PETITION
Filed: September 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S2-03P12852** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 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 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

Mail Date: 04/20/2010

Applicant	: Chauncey W. Griswold	: DECISION ON REQUEST FOR
Patent Number	: 7578741	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,211	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1206** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Strategic Patent Group, P.C.
P.O. Box 1329
Mountain View, CA 94042

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Zhitao Diao et al.	:	
Application No. 10/938,219	:	DECISION ON PETITION
Filed: September 9, 2004	:	
Attorney Docket No. 3230P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 22, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2007. Accordingly, the date of abandonment of this application is May 23, 2007.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Janyce Mitchell
Strategic Patent Group, P.C.
475 N. Whisman Road, Suite 475
Mountain View, CA 94043

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Anthonie Hardeman et al.
Application No. 10/938,223 : DECISION ON REQUEST
Filed: September 09, 2004 : FOR WITHDRAWAL OF
For: SYSTEM FOR MANAGING BUSINESS : ATTORNEY
PROCESSES BY MEANS OF A COMPUTER
SYSTEM

This is a decision on the request filed on November 12, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

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

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

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

KJD/slb: 01/25/05

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HAMRE SCHUMANN MUELLER & LARSON PC
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MINNEAPOLIS MN 55402-0902

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Masashi Horimoto :
Application No. 10/938,229 : DECISION ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 12844.0086US01 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 13, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed July 28, 2008. This Office action set a shortened statutory period for reply of three (3) months. Therefore, the last day a reply could have been timely filed, with a three month extension of time, would have been January 28, 2009. The Office mailed a Notice of Abandonment on February 3, 2009, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on January 27, 2009, made timely by obtaining a three month extension. A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 2893 for consideration of the Amendment, timely filed with a thre month extension of time on January 27, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of :
Michael E. Bazakos, et al. :
Application No. 10/938,244 : DECISION ON PETITION
Filed: September 9, 2004 :
Attorney Docket No. H0007910-0760 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2009. Accordingly, the date of abandonment of this application is April 28, 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
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Michael E. Bazakos	: DECISION ON REQUEST FOR
Patent Number	: 7606425	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/03/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10938256 Patent No.: 7420000 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: The request of correction of typographic errors has been approved by the Examiner.

Joseph K. McKane
JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

_____ SPE _____ Art Unit

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ONE BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of :
Irene Jennrich et al :
Application No. 10/938,260 : DECISION ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 10191/3967 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2007 (and resubmitted on February 26, 2007), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 17, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A three month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 19, 2006 (September 17, 2006, the due date, was a Sunday). A Notice of Abandonment was mailed on November 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 elections, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of May 17, 2006 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1755 for appropriate action in the normal course of business on the reply received January 29, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANNE MCGOVERN BURKHART
C/O CARMER PATTI LAW GROUP
1 NORTH LA SALLE, 44TH FLOOR
CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of :
Reynolds H. **DICKINSON, III** :
Application No. 10/938,264 : DECISION ON PETITION
Filed: September 11, 2004 :
Attorney Docket No. P0408 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 11, 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 August 12, 2006.

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

Petitioner should address the statement that, within the last 10 months, Anne McGovern Burkhart, the attorney submitting the petition, became aware that her husband, the applicant's attorney, has been ill for some time.

As, Anne Burkhart was also an attorney of record in the application during the period in which the application became abandoned, petitioner must explain the delay from the time she became aware of the her husbands illness until the filing of the petition.

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

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

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

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

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

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 12, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of

action (or inaction). Likewise, as Burkhart & Burkhart was counsel of record at the time of abandonment, Burkhart & Burkhart should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Burkhart & Burkhart. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Reynolds H. Dickinson and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Burkhart & Burkhart, Reynolds H. Dickinson and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost three (3) years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ANNE MCGOVERN BURKHART**
701 MAPLE AVE.
DOWNERS GROVE, ILLINOIS 60515

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O CARMER PATTI LAW GROUP
1 NORTH LA SALLE, 44TH FLOOR
CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Reynolds H. DICKINSON, III	:	
Application No. 10/938,264	:	DECISION ON PETITION
Filed: September 11, 2004	:	
Attorney Docket No. P0408	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 11, 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 August 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 11, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Aravind Padmanabhan	: DECISION ON REQUEST FOR
Patent Number	: 7630063	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **787** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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New York NY 10004

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OFFICE OF PETITIONS

In re Application of :
Kenji Kato et al. :
Application No. 10/938,266 : DECISION GRANTING PETITION
Filed: September 10, 2004 :
Att'y Docket No. 52433/771 :

This is a decision on the petition filed January 19, 2005, in response to the Notice of Incomplete Nonprovisional Application mailed November 29, 2004, requesting that the above identified application be accorded a filing date of September 10, 2004. The petition is treated under 37 CFR 1.53.

On September 10, 2004 the application was filed.

On November 29, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition and 4 sheets of drawings, were filed. Petitioners argue that the drawings were filed with the other application papers on September 10, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of September 10, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, drawings, was supplied with the present petition. Petitioner has also supplied copies of the drawings. Petitioner requests that the application, including the drawings, be accorded a filing date of September 10, 2004.

Upon review, the drawings purportedly deposited on September 10, 2004 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 10, 2004, included drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 4 sheets of drawings, was complete on filing and entitled to a filing date of September 10, 2004.

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

The Notice of Incomplete Nonprovisional Application mailed September 10, 2004, is withdrawn. Therefore, the petition fee in the amount of $400.00 will be credited back to deposit account no. 11-0600.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of September 10, 2004, using the application papers filed on September 10, 2004 and the drawings supplied on January 19, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Kenji Kato	: DECISION ON REQUEST FOR
Patent Number	: 7645362	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,266	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 1800
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Laurent Hechmati :
Application No. 10/938,276 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 11785.4 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 16, 2009, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed November 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $755 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Craig R. Schardt et al :
Application No. 10/938,277 : DECISION GRANTING PETITION
Filed: September 11, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 59981US002 :

This is a decision on the petition, filed December 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 31, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\938277.wpd

[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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/7/08

Paper No.: _____

TO SPE OF : **Technology Center** 2822 10/938277

SUBJECT : Request for Certificate of Correction on Patent No.: 7256057 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

N. DREW RICHARDS
SUPERVISORY PATENT EXAMINER

SPE

2895

Art Unit

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DUKE K. AMANIAMPONG, ESQ.
SUITE 308
441 FRANCISCO ST.
San Francisco, CA 94133

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. : DECISION ON PETITION
Application No. 10/938,303 :
Filed: September 10, 2004 :
Atty. Dkt. No.: KOL001/DKA :

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 2, 2005 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed November 1, 2004. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 13, 2005.

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

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

This application will be forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DEC 0 3 2004

TECHNOLOGY CENTER 3600

J. CHARLES DOUGHERTY
WRIGHT, LINDSEY & JENNINGS LLP
SUITE 2300
200 WEST CAPITOL AVENUE
LITTLE ROCK, AR 72201

In re application of : **DECISION ON PETITION**
S. Kenneth Davidson : **TO MAKE SPECIAL**
Application No. 10/938,326 : **(APPLICANT'S AGE)**
Filed: September 10, 2004 :
For: RETURN-OF-PREMIUM INSURANCE SYSTEM AND METHOD

This is a decision on the petition submitted on September 10, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a birth certificate indicating Mr. Davidson 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

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

In re Application of	:	
Vahe Bedian et al	:	
Application No. 10/938,353	:	DECISION GRANTING PETITION
Filed: September 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ABX-PF4	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 23, 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 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

In re Application of :
Bedian et al. :
Application No. 10/938,353 : ON APPLICATION FOR
Filed: September 9, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. ABX-PF4 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed April 13, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred sixty-five (565) days, not three hundred seventy-five (375) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

[1] This calculation takes into consideration that a request for continued examination (RCE) was first filed in this application on March 18, 2008. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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

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

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

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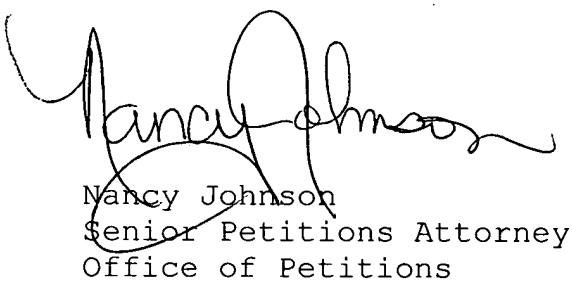
[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office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

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

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

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Vahe Bedian	: DECISION ON REQUEST FOR
Patent Number	: 7592430	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **605** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of :
Kevin P. McCabe et al. :
Application No. 10/938,361 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. VTN612DIV :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is February 2, 2008. A Notice of Abandonment was mailed on May 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 a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/27/2010

Applicant	: Kevin P. McCabe	: DECISION ON REQUEST FOR
Patent Number	: 7666921	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/938,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

In re Patent of	:	DECISION ON REQUEST
Michelson	:	FOR
Patent No. 7,625,381	:	RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/938,376	:	and
Filed: September 11, 2004	:	NOTICE OF INTENT TO ISSUE
Docket No. 101.0056-18000	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred twenty-three (723) 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 seven hundred twenty-three (723) 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 September 12, 2007 and ends on April 7, 2008, the day before the RCE was filed, and is 209 (not 210) days. *See* 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 722, not 723 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, 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 application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-two (722)** days.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,625,381 B2

DATED : **December 1, 2009** **DRAFT**

INVENTOR(S) : Michelson

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 569 days

Delete the phrase "by 569 days" and insert – by 722 days--

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FOLEY HOAG LLP
155 SEAPORT BLVD.
BOSTON, MA 02210

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OFFICE OF PETITIONS

In re Application of :
Carol Holland-Staley :
Application No. 10/938,405 : DECISION ON PETITION
Filed: September 9, 2004 :
Attorney Docket No. PCV-001CN :

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

This application became abandoned for failure to respond timely to the Notice to File Missing Parts of Nonprovisional Application mailed on December 13, 2004, which set a two-month extendable period to reply. This application became abandoned on February 14, 2005. A Notice of Abandonment was mailed on September 9, 2005.

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Petitioner submitted a request for an extension of time to file a response with the present petition after the maximum period obtainable for reply. Accordingly, the $1,080.00 extension of time fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Lisa M. Soltis
ILLINOIS TOOL WORKS INC.
3600 West Lake Avenue
Glenview, Illinois 60025

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OFFICE OF PETITIONS

In re Application of	:	DECISION
Richard J. ERNST, et al.	:	ON PETITION
Application No. 10/938,425	:	UNDER 37 CFR 1.137(b)
Filed 10 September 2004	:	
Attorney Docket No.: 14479	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 25 August 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 Non-Provisional Application (Notice) mailed 02 November 2004, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 03 January 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an oath of the inventors in compliance with 37 CFR 1.53 along with the basic filing fee of $790, late surcharge and other required fees, (2) the petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 02 November 2004 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
NNH/WL:hn N.H

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Hollander, Scott	:	
Application No. 10/938,433	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SCOHO.001C1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/189,364, filed June 27, 2002, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3765 for appropriate action on the amendment filed January 19, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Khaled H. El-Maleh	: DECISION ON REQUEST FOR
Patent Number	: 7590096	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: David C. Vacanti	: DECISION ON REQUEST FOR
Patent Number	: 7668505	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Mark A. Litman & Associates, P.A.
York Business Center, Suite 205
3209 West 76th St.
Edina MN 55435

In re Application of:
Yoseloff, Mark L, et al
Serial No. 10/938,484
Filed: Sep. 10, 2004
Docket: PA1105.AP.US
Title: INTERACTIVE SIMULATED STUD POKER APPARATUS AND METHOD

DECISION ON PETITION
UNDER 37 CFR § 1.144
and § 1.181

This is a decision on the petition filed Nov. 5, 2007 under 37 CFR 1.181 requesting withdrawal of the restriction requirement restricting claims 16-20 and 47 from the Office Action dated Sep. 4, 2007.

The petition is dismissed as moot.

A review of the application indicates that in the supplemental notice of allowance mailed on Dec. 28, 2007, the examiner has withdrawn the restriction requirement of Sep. 4, 2007, rejoined the non-elected claims 16-20 and 47 and allowed all pending claims in the case. The petition is rendered as moot because the relief requested in the petition has occurred.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young, Director
Technology Center 3700

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Bell, Boyd & Lloyd, LLC
P.O. Box 1135
Chicago, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of :
Mark E. Connell, et. al. :
Application No. 10/938,486 : ON PETITION
Filed: September 9, 2004 :
Attorney Docket No. ALT-5604D N4 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/175,072.

The application file is being referred to Technology Center Art Unit 1723 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of
Steidle, et al.
Application No. 10/938,494
Filed: September 13, 2004
Attorney Docket No. 8540G-000281
FOR: BIPOLAR PLATE CHANNEL STRUCTURE WITH KNOBS FOR THE IMPROVEMENT OF WATER MANAGEMENT IN PARTICULAR ON THE CATHODE SIDE OF A FUEL CELL

: DECISION GRANTING
: PETITION

This is a decision on the correspondence titled, "REQUEST FOR CORRECTED OFFICIAL FILING DATE," filed September 29, 2004, requesting that the above-identified application be accorded a filing date of September 10, 2004, instead of the presently accorded date of September 13, 2004. The correspondence will be treated as a petition under 37 CFR 1.10(c).

Petitioners request the earlier filing date based on the assertion that the application was deposited in "Express Mail" service with the United States Postal Service (USPS), on September 10, 2004. In support, petitioner has provided a copy of Express Mail label no. EV 406073789US, an Express Mail log showing a date of 9/10/04 for Express Mail label no. EV 406073789US, and a copy of a printout of the USPS Shipping Center Track and Confirm information for the package associated with Express Mail label no. EV 406073789US.

The original Utility Patent Application Transmittal lists Express Mail label no. EV 406073789US thereon.

While the date-in field of the Express Mail label in question is not filled in, the printout of the USPS Track and Confirm for the Express Mail label no. states that the package was accepted on September 10, 2004.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on September 10, 2004.

The petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **September 10, 2004** and the mailing of a filing receipt reflecting the change in filing date.

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

E. Shirene Willis

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

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Hiroshi Nakatsuka et al :
Application No. 10/938,537 :DECISION DISMISSING PETITION
Filed: September 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2004-1451A :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not received within sufficient time to avert the issuance of this application into a patent. In this regard, the petition submitted by facsimile transmission was not received in the Office of Petitions for consideration until after 5:00 pm on August 20, 2007, which did not allow sufficient time to withdraw this application from issue. Therefore, as the case has now issued, the petition to withdraw from issue cannot now be granted.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. No fees have been assessed to either the RCE or the petition to withdraw from issue.

The Information Disclosure Statement will be made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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

Frances Hicks
Petitions Examiner
Office of Petitions

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ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Kwang-Chun Kim et al :
Application No. 10/938,538 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. P57080 :

This is a decision on the petition, filed January 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 19, 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 1745 will consider the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean, VA 22102

In re Application of :

James Darrell Park :
Application No. 10/938,543 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 016472-0311928 : 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 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 James G. Gatto on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **James Darrell Park**
3251 Sepulveda Blvd.
Apt. 301
Los Angeles, CA 90034

cc: **Dr. Soheil Shams**
Biodiscovery, Inc.
212 Rosecrans Ave., Suite 3315
El Segundo, CA 90245

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SEP 10 2008

TECHNOLOGY, PATENTS AND LICENSING, INC.
2003 SOUTH EASTON ROAD
SUITE 208
DOYLESTOWN, PA 18901

In re Application of :
PARK, James D. :
Application No. 10/938,543 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. **BIO-001-1** : 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 June 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. 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 Andrew Spicer on behalf of all attorneys of record who are associated with customer No. 27833. All attorneys/agents associated with the Customer Number 27833 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BIODISCOVERY, INC.**
2121 ROSECRANS AVENUE SUITE 3315
EL SEGUNDO CA 90245

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/26/08

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10938590 Patent No.: 7371494 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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.

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

Comments: _____

_____

_____

_____

_____

SPE /Mark F. Huff/ Art Unit 1795

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, Commissioner for Patents
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GEORGE A ROLSTON
45 SHEPPARD AVENUE EAST
SUITE 900
TORONTO ON M2N5W-9 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Maurizio c. Bertato	:	
Application No. 10/938,592	:	DECISION ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No. 1175U101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 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 October 23, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 21, 2006. Accordingly, the date of abandonment of this application is October 24, 2006. The Notice of Abandonment was mailed February 5, 2007.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Miyamoto et al.	:	
Application No. 10/938614	:	DECISION
Filing or 371(c) Date: 09/13/2004	:	ON PETITION
Patent No.: 7088652	:	
Issue Date: 08/08/2006	:	
Attorney Docket No.: 500.34354C30	:	

This is a decision on the correspondence entitled "Petition for Suspension of Rules and Certificate of Correction Under 37 CFR 1.323," filed November 7, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition and requests correction of the assignee name.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a 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 supplied).

Analysis and conclusion

Office records do not reveal that an assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

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

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

Derek L. Woods
Attorney
Office of Petitions

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OFFICE OF PETITIONS

In re Application of	:	
Miyamoto et al.	:	
Application No. 10/938614	:	DECISION
Filing or 371(c) Date: 09/13/2004	:	ON PETITION
Patent No.: 7088652	:	
Issue Date: 08/08/2006	:	
Attorney Docket No.: 500.34354C30	:	

This is a decision on the correspondence entitled "Request for Reconsideration of Petition for Suspension of Rules and Certificate of Correction Under 37 CFR 1.323," filed February 14, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that HITACHI, LTD., are the assignees of record[1]. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] In the case of a division or continuation application, a prior assignment recorded against the original application is applied (effective) to the division or continuation application because the assignment recorded against the original application gives the assignee rights to the subject matter common to both applications. MPEP 306.

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JOHN KENNETH AMICK
980 NW 49TH WAY
COCONUT CREEK FL 33063

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
JOHN KENNETH AMICK :
Application No. 10/938,638 : ON PETITION
Filed: 09/13/2004 :
Attorney Docket No. VIRTUAL :
ENVIRONMENT SOFTWARE TOOL KIT, :
COMMON OPERATING CONTROL :
METHOD AND COMPUTER PROGRAM :
PRODUCT FOR IP TELEPHONY :

This is in response to the communication, filed March 5, 2007, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On March 14, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two month shortened statutory period to reply. The application became abandoned on May 15, 2005, for failure to submit a timely response to the Notice.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice to File Missing Parts.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice to File Missing Parts, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice to File Missing Parts was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for Notice to File Missing Parts was not entered into that system. Petitioner should provide the USPTO with copies of any records or other methods where petitioner would have entered the receipt date of the Notice to File Missing Parts had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who handle correspondence from the USPTO, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice to File Missing Parts was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after March 14, 2005; the period when he would have received the Notice to File Missing Parts.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Notice to File Missing Parts. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the Notice to File Missing Parts accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding notice in the form of payment of $1,300.00 for 13 independent claims over 3.

(2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners, who answer general questions concerning patent examining policy and procedure.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice to File Missing Parts dated March 14, 2005.

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
10/938,638	09/13/2004	John Kenneth Amick	

CONFIRMATION NO. 3283

JOHN KENNETH AMICK
980 NW 49TH WAY
COCONUT CREEK, FL 33063

FORMALITIES LETTER

OC000000015453461

Date Mailed: 03/14/2005

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).

- Additional claim fees of **$1300** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1300** for a Small Entity

- Total additional claim fee(s) for this application is **$1300**
  - **$1300** for **13** independent claims over 3.

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 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Masahiro Soma	: DECISION ON REQUEST FOR
Patent Number	: 7643013	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,668	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Kyle Eppele, Esquire
Rockwell Collins, Inc.
M/S 124-323
400 Collins Road NE
Cedar Rapids, IA 52498

COPY MAILED

MAR 15 2007

OFFICE OF PETITIONS

In re Application of Snodgrass :
Application No. 10/938,679 : Decision on Petition
Filing Date: September 10, 2004 :
Attorney Docket No. 03CR255/KE :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 29, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 2006. A Notice of Abandonment was mailed on November 6, 2006.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
620 Eighth Avenue
NEW YORK, NY 10018

Mail Date: 05/07/2010

Applicant	: Pierre Messier	: DECISION ON REQUEST FOR
Patent Number	: 7625351	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/938,693	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JAN 19 2005

A. (AUGUST) ROBERT BAUER, JR., M.D.
P.O. BOX 17533
SALT LAKE CITY UT 84117-0533

In re Application of	:	
A. Robert Bauer, Jr.	:	
Serial No.: 10/938,696	:	PETITION TO MAKE SPECIAL
Filed: September 11, 2004	:	
Attorney Docket No.: 687-1-001	:	

This is in response to applicant's petition filed on January 3, 2005, 2004, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

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

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

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/01/2010

Applicant	: Simon Barker	: DECISION ON REQUEST FOR
Patent Number	: 7624013	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/938,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

Mail Date: 04/21/2010

Applicant	: Bradley D. Kindig	: DECISION ON REQUEST FOR
Patent Number	: 7672873	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,761	: OF WYETH
Filed	: 09/10/2004	:
		:

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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MAR 17 2006

OFFICE OF PETITIONS

MaryDilys S. Anderson, Ph.D.
600 Atlantic Avenue
Boston, MA 02210

In re Application of :
Old, et al. : DECISION ON PETITION
Application No. 10/938,767 :
Filed: September 9, 2004 :
Atty. Dkt. No.: L0461.70161US00 :

This decision is in response to the petition under 37 CFR 1.181 filed August 8, 2005.

This application was held abandoned December 27, 2004 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 26, 2004. The Notice set a two month shortened statutory period for reply. Notice of Abandonment was mailed July 13, 2005.

Petitioners argue that the Notice mailed October 26, 2004 was not received at the correspondence address of record for the instant application.

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

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

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

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

This application is being directed to the Office of Initial Patent Examination for re-mailing of the Notice.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

297
4/18/06
Disms

DATE: 7/31/05 APPLICATION NUMBER: 10/958,778

DOC CODE: P6A9.DEC DOC DATE: _____

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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Commissioner for Patents
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Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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AUG 0 2 2007

OFFICE OF PETITIONS

Applicant: Theodore F. Bouk, et al.
Appl. No.: 10/938,770
Filing Date: September 10, 2004
Title: DETERMINING SHARPNESS PREDICTORS FOR A DIGITAL IMAGE
Attorney Docket No.: 88263RLO
Pub. No.: US 2006/0056731 A1
Pub. Date: March 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.

Applicant requests that the application be republished because the patent application publication contains a material error, as page 12 of the original application, which includes a parts list was omitted from the publication and Formula 7 on page 3 of the publication is incorrect.

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

The error in omitting page 12 of the original application papers is an Office error, but it is not a material Office error under 37 CFR 1.221. The omission of the parts list on page 12 does not affect the understanding of the application, as the parts are labeled in the specification and the application is clearly understandable to one of ordinary skill in the art in 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

[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).

or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error noted by requestor with respect to Formula 7 in this published application is due to the quality of the text in the application. The quality of the text is poor, as it is very small, blurry and not clearly legible, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is small and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

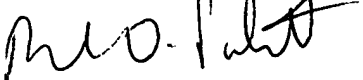
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FROM DIRECTORS OFFICE

AUG 01 2006

TECHNOLOGY CENTER 3600

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

In re Application of
Phillip E. Dietsch et al.
Application No. 10/938,776
Filed: September 9, 2004
For: ROTARY CONVEYOR BELT CLEANER

DECISION ON PETITION TO CONVERT TO A PROVISIONAL APPLICATION

This is a decision on the petition under 37 CFR 1.53 (c)(2) filed June 24, 2005, to convert the above-identified application to a provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53 (c)(2).

The requirements for granting of such a petition are: (A) a petition requesting conversion and the petition fee set forth in 37 CFR 1.17(q), and (B) the petition must be filed prior to the abandonment of the 37 CFR 1.53(b) application, the payment of the issue fee, the expiration of 12 months after the applications filing date, or the filing of a request for statutory invention registration under 37 CFR 1.293, whichever event is earlier. Upon the grant of such a petition no fees properly paid in the 37 CFR 1.53(b) application are entitled to be refunded.

Since all of the requirements for conversion to a provisional application under 37 CFR 1.53(c)(2) have been met, the petition is **GRANTED**.

The application will be assigned a new provisional application number and will be further processed by the Office of Initial Patent Examination (OIPE) as a PROVISIONAL application under 35 U.S.C. 111(b) and 37 CFR 1.53(c)(2). The new provisional application number will be communicated by OIPE in due course.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg July 12, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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6768 MEADOW VISTA CT.
SAN JOSE CA 95135

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Ichitsubo et al. :
Application No. 10/938,779 : DECISION ON PETITION
Filed: 10 September, 2004 :
For: TEMPERATURE-COMPENSATED :
POWER SENSING CIRCUIT FOR POWER :
AMPLIFIERS :

This is a decision on the petition filed on 26 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 March, 2005, for failure to timely file a response to the non-final Office action mailed on 30 November, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance

---

[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)).

with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 July, 2005.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The present petition is accompanied by an amendment to the claims.

The petition fee due under 37 CFR 1.137(b) of $750.00 will be assessed to counsel's deposit account, No. 50-1861.

This application is being referred to Technology Center 2800 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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

JAN 10 2006

Technology Center 2100

In re Application of MIZUNO	:	
Application No.: 10/938,786	:	DECISION ON PETITION
Filing Date: September 13, 2004	:	FOR ACCELERATED
For: METHOD OF MANAGING STORAGE	:	EXAMINATION UNDER
SYSTEM TO BE MANAGED BY	:	M.P.E.P. §708.02(VIII)
MULTIPLE MANAGERS	:	

This is a decision on the petition filed December 9, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed December 9, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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INTERNATIONAL BUSINESS MACHINES CORPORATION
RICHARD LAU
IPLAW DEPARTMENT / BLDG 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of
Camil FAYAD, et al.
Application No. 10/938,808
Filed: September 10, 2004
Attorney Docket No. **POU920040083US1**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 11, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Ms. Blanche E. Schiller appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Ms. Schiller desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

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

This application is being referred to Technology Center AU 2436 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **BLANCHE E. SCHILLER**
HELSIN ROTHENBERG FARLEY & MESITI, PC.
5 COLUMBIA CIRCLE
ALBANY, NY 12203

---

[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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WORLDWATER CORP.
55 ROUTE 31 SOUTH
PENNINGTON, NJ 08534

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Charles McNulty, et al. :
Application No. 10/938,829 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. None :

This is a decision in response to the petition, filed April 17, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed November 2, 2006. A Notice of Abandonment was mailed on December 22, 2006. In response, on April 17, 2007, the present petition was filed.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Henry P. Sartorio appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to Mr. Sartorio, the petitioner herein. However, if, Mr. Sartorio desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. 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 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 2837 for consideration of the amendment filed April 17, 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

cc: HENRY P. SARTORIO
5290 THERESA WAY
LIVERMORE, CA 94550

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OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of :
Katayama et al. :
Application No. 10/938,840 : DECISION ON PETITION
Filed: September 13, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 121065 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed August 15, 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 **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 the filing of a petition accompanied by a statement by the applicant, assignee, or an 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.

Applicant has satisfied the provisions set forth in M.P.E.P. § 708.02, Section II and therefore the petition to make special is granted.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

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 2853 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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

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NOV 0 6 2007

OFFICE OF PETITIONS

In re Application of :
GROSS, Harald :
Application No. 10/938,845 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. **1525.030523** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on October 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PATTERSON & SHERIDAN, LLP**
GERO MCCLELLAN/INFINEON/QIMONDA
3040 POST OAK BLVD., SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

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

In re Application of :
Harald GROSS :
Application No. 10/938,847 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 543822009400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: HARALD GROSS
THEODOR-FONTANE-STR. 7
DRESDEN, GERMANY

cc: GERO G. MCCLELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD,
SUITE 1500
HOUSTON, TX 77056

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/938,847	09/13/2004	Harald Gross	543822009400

CONFIRMATION NO. 1986

OC000000024352990

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

- 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.

Diane Goodwin

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

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Paper No. None

KEVIN FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH NH 03801

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Joseph M. Ullman and Dennis M. McDevitt :
Application No. 10/938,860 :
Filed: September 10, 2004 :
Attorney Docket No. 18803-3839 :
Title: GUIDEWIRE REEL AND RELATED METHODS :

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 22, 2005.

On September 10, 2004, the application was deposited, identifying Joseph M. Ullman and Dennis M. McDevitt as joint inventors. No oath or declaration was included on filing. On November 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee and fees for additional claims. This Notice set a two-month period for reply.

With this petition, Petitioner has included the basic filing fee, the surcharge associated with the last submission of an oath or declaration, the search fee, the examination fee, the fees for additional claims, the petition fee, and a four-month extension of time to make timely this response.

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

Petitioner has met requirements (1) – (5) above.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

Mail Date: 04/26/2010

Applicant	: Terho Kaikuranta	: DECISION ON REQUEST FOR
Patent Number	: 7602744	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/938,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

L. ZALE PATENT LAW OFFICE
334 SOUTH FRANKLIN ST.
WILKES-BARRE, PA 18702

In re Application of :
NEAL, Michael R. :
Application No. 10/938,868 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. **116433-00100** : 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 13, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (client will use another attorney), 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 Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MICHAEL R. NEAL**
WINK INTERACTIVE
LACKAWANNA AVE., SUITE 218
SCRATON, PA 18703

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/938,868	09/13/2004	Michael R. Neal		3423

54853 7590 09/14/2007

L. ZALE PATENT LAW OFFICE
334 SOUTH FRANKLIN ST.
WILKES-BARRE, PA 18702

EXAMINER	
ARAQUE JR, GERARDO	
ART UNIT	**PAPER NUMBER**
3629	

MAIL DATE	DELIVERY MODE
09/14/2007	PAPER

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

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

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L. ZALE PATENT LAW OFFICE
334 SOUTH FRANKLIN ST.
WILKES-BARRE, PA 18702

In re Application of

NEAL, Michael R.
Application No. 10/938,868
Filed: September 13, 2004
Attorney Docket No. **116433-00100**

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 13, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (client will use another attorney), 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 Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MICHAEL R. NEAL**
WINK INTERACTIVE
LACKAWANNA AVE., SUITE 218
SCRATON, PA 18703

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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO IL 60610

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APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Jack Atad :
Application No. 10/938,870 : DECISION ON PETITION
Filed: September 13, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. **10922-369** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 4, 2009, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by a registered attorney. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

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 3734 for action on the merits commensurate with this decision.

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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APR 01 2008

OFFICE OF PETITIONS

In re Application of	:	
HALE, et al.	:	
Application No. 10/938,874	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. **07588.0085**	:	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 24, 2007.

The request is **APPROVED.**

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

The request was signed by Deborah Katz. Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Douglas A. Atkinson :
Application No. 10/938,894 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. 086464.00010 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2005.

The request is **APPROVED**.

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

The request was signed by Kevin A. Buford attorney/agent of record on behalf of himself.

Kevin A. Buford has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

for David Bucci
Petitions Examiner
Office of Petitions

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Erich Thallner :
Application No. 10/938,931 : DECISION ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. BE8934US :

This is a decision in response to a petition filed April 25, 2005, requesting that the above-identified application be accorded a filing date of September 10, 2004.

A review of the record discloses that USPTO records have been updated to show the correct filing date pursuant to 37 CFR 1.10. A corrected Official Filing Receipt was mailed on April 27, 2005.

Accordingly, the present petition is dismissed as moot. No petition fee was charged to counsels deposit account, nor is one due.

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/938,935	09/10/2004	2652	770	17310-309027	3	11	1

CONFIRMATION NO. 5295

CORRECTED FILING RECEIPT

25764
FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
MINNEAPOLIS, MN 55402

OC000000014858439

Date Mailed: 12/30/2004

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)

Larry C. Webb JR., Hutchinson, MN;
Michael E. Roen, Hutchinson, MN;

Assignment For Published Patent Application

Hutchinson Technology Incorporated, Hutchinson, MN

Power of Attorney: The patent practitioners associated with Customer Number **25764**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/501,942 09/11/2003

Foreign Applications

If Required, Foreign Filing License Granted: 10/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/938,935

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Webbed ground plane structure for integrated lead suspensions

Preliminary Class

360

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

GRANTED

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

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

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

NOT GRANTED

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

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PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Larry C. Webb JR.	: DECISION ON REQUEST FOR
Patent Number	: 7660074	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/938,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Dr. BANGER SHIA
102 Lindencrest Ct.
Sugar Land TX 77479-5201

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Yi-Min Lee	:	
Application No. 10/938,937	:	DECISION ON PETITION
Filed: September 9, 2004	:	
Attorney Docket No. 0010-A14(SY-66)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 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 October 18, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 18, 2006. Accordingly, the date of abandonment of this application is October 19, 2006.

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Banger Shia
204 Canyon Creek
Victoria, TX 77901-3695

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Paper No. 20080327

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SINGLETON LAW FIRM, P.C.
ONE EAST MAIN
SUITE 215
CHAMPAIGN IL 61820-3654

In re Application of:
HERRING, Cyrus M.
Serial No.: 10/938,960
Filed: September 10, 2004
Attorney Docket No.: **Caviton-11765-3**

:: DECISION ON PETITION

This is a decision on the petition filed March 7, 2008. The petition has been treated as a petition to re-mail the final Office action mailed on March 26, 2007 and restart the shortened statutory period for reply. No petition fee is required.

The petition is **GRANTED**.

The petitioner asserts that the Office action mailed on October 31. 2007 was not received. It is further asserted that a check of the PAIR system on March 3, 2008 revealed that an Office action had been mailed. The applicant filed a petition for a restart of the period for reply due to a late receipt of an office action. This could not be granted because the office action has not been received. However M.P.E.P. 711.03(c)I.A. states in part:

> *In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.*

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.).

While the paragraph above refers to situations where the extendable time period of reply has passed and the application is abandoned, if proof is provided that the office action has not been received as set forth above, then it would be appropriate to restart the time period. On March 27, 2008 at the request of the office the attorney of record provided a copy of their docketing record to prove that the action had not been received.

For the above stated reasons, the petition is granted.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action dated October 31, 2007. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is re-mailed.

Inquiries regarding this decision should be directed to Gregory J. Toatley, Jr. at (571) 272-2059.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosed:
Interview Summary
Docket record received March 27, 2008

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SUITE 215
CHAMPAIGN, IL 61820-3654

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OFFICE OF PETITIONS

In re Application of :
HERRING, Cyrus M. :
Application No. 10/938,960 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. **Caviton-11765-3** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 01, 2008.

The request is **APPROVED**.

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

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

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

There is an outstanding Office action mailed April 11, 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: **CYRUS HERRING**
3101 STAFFORD DRIVE
CHARLOTTE, NC 28202

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IPxLAW Group LLP
95 South Market Street
Suite 570
San Jose CA 95113

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
EDWIN E. KLINGMAN :
Application No. 10/938,990 : ON PETITION
Filed: September 9, 2004 :
Attorney Docket No. **614-4401** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2009. Accordingly, the date of abandonment of this application is April 28, 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(s) (1).

As to item 1

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. *See Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 USC 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a Request for Continued Examination (RCE) without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. *See In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

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.

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 internet: EFS-Web[1]

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/23/09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10939009 Patent No.: 7539287 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 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: _____

Ahmad Matar
SPE - 2614
7/9/09

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

Applicant	: David L. Crandall	: DECISION ON REQUEST FOR
Patent Number	: 7661220	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **773** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 05/17/2010

Applicant : David L. Crandall
Patent Number : 7661220
Issue Date : 02/16/2010
Application No: 10/939,016
Filed : 09/09/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **860** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/12/06

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/939823 Patent No.: 7047307B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECH CENTER 2100

2157
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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Anil Rao	:	
Application No. 10/939,047	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 200404691-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of November 2, 2006, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center Au 2185 to consider the reply of July 17, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
RANDY A. NORANBROCK
1700 DIAGONAL ROAD SUITE 300
ALEXANDRIA VA 22314

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Commissioner for Patents
United States Patent and Trademark Office
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ADAMS & WILKS
17 BATTERY PLACE
SUITE 1231
NEW YORK NY 10004

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Satoshi Machida	:	
Patent No. 7,161,196	:	DECISION ON PETITION
Issued: 01/09/2007	:	
Application No. 10/939,053	:	
Filed: 09/10/2004	:	
Attorney Docket No. S004-5343	:	

This is a decision on the petition under 37 CFR 1.55(a)(2), filed June 9, 2008,[1] for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the

[1] On December 12, 2006, the petition and priority papers were filed. However the petition and accompanying papers were not properly entered or treated as a petition. On June 9, 2008, a duplicate copy of the prior-filed papers was supplied.

priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, as the application issued as U.S. Patent No. 7,161,196 on January 9, 2007, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 323 and pay the required fee of $100.

Any questions concerning this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

Anthony Knight
Petitions
Office of Petitions

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OCT 22 2007

OFFICE OF PETITIONS

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

In re Application of :
Kazuhisa Shida, et al. :
Application No. 10/939,057 : DECISION GRANTING PETITION
Filed: September 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. KOY-45 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 18, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1756 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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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OFFICE OF PETITIONS

In re Patent of Nee	:	
Patent No. 7,045,187	:	
Issue Date: May 16, 2006	:	Letter
Application No. 10/939,074	:	
Filing Date: September 10, 2004	:	
Attorney Docket No. 7272-60	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 6, 2006.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

Petitioner submitted $6,096, including $385 for the deficiency owed for the filing fee. However, the filing fee deficiency is actually $405 ($790 - $385). Therefore, $20 has been charged to petitioner's deposit account.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090604

DATE : October 11, 2007

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No./10/939079 patent no.7223103

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3714
Art Unit

Ok to Enter D.S. 6/4/09

Vinson&Elkins

Reese P. McKnight rmcknight@velaw.com
Tel 512.542.8431 Fax 512.236.3267

OIPE LAP86 SEP 04 2007 PATENT & TRADEMARK OFFICE

August 31, 2007

CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Mail Stop AFt, Commissioner for Patents; P. O. Box 1450, Alexandria, VA 22313-1450 on the date below:

August 31, 2007
Date

Reese P. McKnight

ATTENTION: CERTIFICATE OF CORRECTION BRANCH
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent No. 7,223,103, (SN: 10/939,079) entitled "CPR Training Device"
by Elroy T. Cantrell and Melissa K. Waugh
Our Ref.: ELC500/4-003US/36000

Sir:

Enclosed for filing in the above-referenced patent are the following documents:

1. Request for Certificate of Correction;

2. Form PTO/SB/44; and

3. A return postcard to acknowledge receipt of these documents. Please date stamp and mail this postcard.

Since the error corrected by this Certificate is believed to be a Patent Office oversight, Applicant believes that no fee is required in connection with these papers. Should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Commissioner is hereby authorized to deduct said fees from VINSON & ELKINS L.L.P. Deposit Account No. 22-0365/ELC500/4-003US/36000.

Respectfully submitted,

Reese P. McKnight
Reg. No. 38,414
Attorney for Patentee

Certificate
SEP 06 2007
of Correction

RPM/cp
Enclosures

SEP 6 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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CTS CORPORATION
905 W. BLVD. N
ELKHART, IN 46514

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of:
Cooper et al.
Application No. 10/939,085
Filed: September 10, 2004
Title of Invention:
BALL GRID ARRAY RESISTOR NETWORK
HAVING A GROUND PLANE

LETTER

This is in response to the petition under 37 CFR 1.47(a) filed with the above-identified application on November 15, 2004.

The petition is DISMISSED AS MOOT.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/337,633, filed on January 7, 2003, of which the instant filing is a divisional application.

Furthermore, a copy of the decision, mailed August 14, 2003, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status. No petition is necessary to accord Rule 1.47(a) status in this application. No petition fee. A refund of the petition fee has been scheduled.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

Because this is an image file wrapper ("IFW") file, no forwarding of the file is necessary. An electronic message will be forwarded to the Office of Initial Patent Examinationinforming them of the status of the application.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

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FEB 20 2009

OFFICE OF PETITIONS

In re Application of :
WOLFGANG GEISTERT : DECISION ON APPLICATION
Application No. 10/939,089 : FOR
Filed: September 10, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 117163.00118 :

This is a decision on the "CORRECTED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)" filed January 30, 2009, which is properly being treated under the provisions of 37 CFR 1.705(b).[1] Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 463 days to 1085 days, assuming the patent issues on June 9, 2009. 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

[1] On December 9, 2008, applicant submitted a "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. §1.705(d)." However, applicant discovered that an error was made in the Request for Reconsideration. Applicant asserts that the error was corrected in the instant Corrected Request for Reconsideration and asks that the Office disregard the original Request of December 9, 2008. It is noted that no decision had been rendered on the Request for Reconsideration of December 9, 2008, prior to the filing of the instant Corrected Request for Reconsideration.

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).

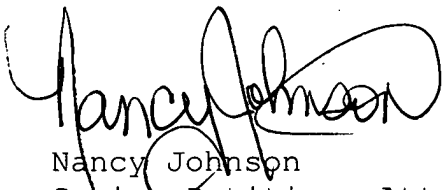
Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without 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 37 CFR 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.

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 matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

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JUL 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,507,237	:	
WOLFGANG GEISTERT	:	
Issue Date: March 24, 2009	:	DECISION ON REQUEST FOR
Application No. 10/939,089	:	RECONSIDERATION OF
Filed: September 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 117163.00118	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed May 6, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from four hundred sixty-three (463) days to one thousand eight (1008) 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 463 days.

On March 24, 2009, the above-identified application matured into U.S. Patent No. 7,507,237 with a revised patent term adjustment of 463 days. The Office determined that the 561 days[1] of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[2]

[1] As of the issuance of the patent on March 24, 2009, the application was pending three years and 463 days.

[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

overlap with the 577 days of Office delay,[3] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (2),[4] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 577 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 114 days of applicant delay, the patent issued with a revised patent term adjustment of 463 days.

On May 6, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 1008 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, 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 contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 16 days as they occur on the same days in both periods. This

---

35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application[.]

[3] A nonfinal Office action was mailed on May 25, 2007, 14 months and 561 days after the application was filed on September 10, 2004. Additionally, the Office did not respond to the reply of February 15, 2008, until July 1, 2008, 4 months and 16 days after the date on which the reply was filed.

[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;
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken[.]

overlapping period is the 16 days running from June 16, 2008 to July 1, 2008. Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1122 (561 + 561) days as these periods do not occur on the same days. Given the 114 days of applicant delay and 16 days of overlap, patentees assert entitlement to 1008 days of patent term adjustment.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[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

---

[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.

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on September 10, 2004, and ending on the date of issuance of the patent on March 24, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (2), 577 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 561 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 561 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 577 days of patent term adjustment under 37 CFR 1.702(a)(1) and (2). Entry of both the 561 days and the 577 days is neither permitted nor warranted. 577 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 561 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 463 days.

The Office acknowledges the previous payment of the $200.00 fee set forth in 37 CFR 1.18(e) on January 20, 2009. No additional fees are required. Furthermore, a review of the USPTO finance records reveals that patentees also submitted the $200.00 fee on December 9, 2008. As the Request filed on December 9, 2008, was not considered on its merits, the $200.00 fee remitted with that Request is unnecessary. The Office will refund the overpayment of $200.00 to the Deposit Account.

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

In re Application of :
Petri Keski-Opas :
Application No. 10/939,091 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 939-011963-US (PAR) :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 1, 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) was obtained. Accordingly, the application became abandoned after midnight January 1, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of $1,590 for a four (4) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,590 extension of time fee submitted with the petition on July 22, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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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OFFICE OF PETITIONS

In re Application of :
Petri Keski-Opas :
Application No. 10/939,091 : DECISION ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 939-011963-US (PAR) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 10, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 11, 2008.

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

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

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 2617 to await the decision of the Pre-Appeal Request, the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

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WOLFELD LLP
PO BOX 366
HALF MOON BAY CA 94019

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OFFICE OF PETITIONS

In re Patent No. 7,435,513 :
Cote, et al. : PATENT TERM ADJUSTMENT
Issue Date: October 14, 2008 :
Application No. 10/939,104 :
Filed: September 10, 2004 :
Atty. Dkt. No. NMTI 1002-32 :

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting suspension of the 37 CFR 1.705(d) deadline for submission of patent term adjustment request filed more than two months from the date the above-referenced patent issued; and on the 2) patent term adjustment request, both filed on April 13, 2009.

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, the decision on application for patent term adjustment under 37 CFR 1.705(d), or the Notice of Intent to Issue Certificate of Correction 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 October 14, 2008, the above-identified application matured into U.S. Patent No. 7,435,513, with a revised patent term adjustment of 586 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 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 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 October 14, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until April 13, 2009. 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 December 14, 2008, the date two months from the date this patent issued, October 14, 2008. Rather, on April 13, 2009, more than six months after the issuance of a decision in Wyeth v. Dudas on

September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the 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

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

"patentee never received notice of Wyeth from the USPTO, and effectively, the "action or notice" has not occurred." Specifically, petitioner states that "the USPTO has not sent notice to the patentee of the opportunity to petition for nonoverlapping days per Wyeth."

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 prior to 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 USPTO did not notify patentee of the Wyeth decision, which was entered prior to the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. 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 nearly four-month 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 1.82 and 1.83 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 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 patent term adjustment request filed April 13, 2009. Therein, patentee requests an additional 213 days of patent term adjustment pursuant to 35 USC 154(b)(1)(B).

On October 14, 2008, the above-identified application matured into U.S. Patent No. 7,435,513 with a revised patent term adjustment of 586 days. The instant request for reconsideration was filed nearly six months after the issuance of the patent on October 14, 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. The required $200.00 application for patent term adjustment fee has been charged to Deposit Account No. 50-0869, as authorized.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :

Andrew E. Flanders et al. :
Application No. 10/939,112 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 1538.120np : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 23294. 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).

J. Andrew McKinney Jr. signed the request on behalf of all attorneys of record.

J. Andrew McKinney Jr. and all attorneys/agents associated with 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 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 Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Andrew E. Flanders
528 North 14th Avenue
Cornelius, OR 97113

cc: Nucore, Inc
5285 NE Elam Young Parkway, Suite A500
Hillsboro, OR 97124

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/939,112	09/13/2004	Andrew E. Flanders	

CONFIRMATION NO. 3412

Andrew E. Flanders
528 North 14th Avenue
Cornelelius, OR 97113

OC000000020352585

Date Mailed: 09/08/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2005.

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

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of :
DELPUCH, et al. :
Application No. 10/939,114 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 523812000500 : 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 1, 2006.

The request is **NOT APPROVED**.

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

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

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MARC KAUFMAN**
NIXON PEABODY LLP
401 9TH STREET NW
WASHINGTON, DC 20004

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
DELPUCH, et al.
Application No. 10/939,114
Filed: March 13, 2002
Attorney Docket No. **523812000500**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALAIN DELPUCH**
34 PARC DES ESSARTS
LES ESSARTS LE ROI, 78690
FRANCE

cc: **MARCH KAUFMAN, ESQ.**
NIXON PEABODY LLP
401 9TH STREET, SUITE 900
WASHINGTON, DC 20004

United States
Patent And
Trademark Office

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

PETITION DECISION

10/28/04

Stanley M. Schurgin
Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/939116 received on 10/12/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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Paper No.

BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of :
Berman et al. : DECISION ON APPLICATION
Application No. 10/939,122 : FOR
Filed: September 10, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 0112300-3568 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed March 14, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred four (604) days to six hundred nine (609) days.

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

On February 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 adjustment (PTA) to date is 604 days. On March 14, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the 5-day period of reduction entered for applicant delay in responding to the Notice to File Missing Parts.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

Applicants are incorrect. A review of the record confirms that the Office mailed a Notice to File Missing Parts of Application on November 2, 2004. Applicants did not file a response until February 7, 2005, three months and 5 days later. Accordingly,

[1] PALM records indicate that the Issue Fee payment was received on May 1, 2008.

pursuant to 37 CFR 1.704(b), the Office properly entered a period of reduction of 5 days.

It is noted that applicants' response bore a certificate of mailing dated February 2, 2005. However, in this regard, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). As discussed in MPEP 2731,

> the date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d))[or filing by the Office's Electronic Filing System (EFS)] for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

Thus, it is concluded that applicants did fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application mailed November 2, 2004.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of six hundred four (604) day is correct.

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

The Office of Data Management has been advised of this decision. The application is thereby forwarded 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 23 2006

OFFICE OF PETITIONS

In re Application of :
Mairal Serrano, Carlos Vicente :
Application No. 10/939,133 : DECISION GRANTING PETITION
Filed: September 10, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00490WOUS :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/EP2003/02309, filed on March 6, 2003).

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 international application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

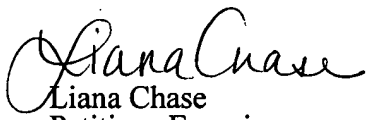
The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed international application has been included in an Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 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. § 365(c) to the above-noted, prior-filed international 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. § 365 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 international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2629 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 365 to the prior-filed international application.



Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/939,133	09/10/2004	2629	900	2002P00490WOUS	3	20	2

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

CONFIRMATION NO. 2361
CORRECTED FILING RECEIPT
OC000000020156447
OC000000020156447

Date Mailed: 08/23/2006

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

Applicant(s)

Carlos Vicente Mairal Serrano, Zaragoza, SPAIN;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

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

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/02309 03/06/2003

Foreign Applications

SPAIN ES P200200661 03/12/2002
If Required, Foreign Filing License Granted: 10/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/939,133

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Touch panel

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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MAY 13 2005

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400 - INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

In re Application :
Duane G. Schroeder :
Serial No.: 10/939,166 : DECISION ON PETITION
Filed: September 10, 2004 :
For: Loadable Bearing for Bicycle Stand :
Driven Roller :

This is in response to applicants' petition filed December 13, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-3750 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/939,173 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No. 14656 B :

This is a decision on the petition under 37 CFR 1.181, filed May 30, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed September 19, 2005, which set a one (1) month period for response. Accordingly, this application became abandoned on October 20, 2005. A Notice of Abandonment was mailed on May 3, 2006.

A review of the application file indicates the September 19, 2005 Office action was mailed in error due to a typographical mistake with the application number placed on the correspondence. The Office sincerely apologizes for this error.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

The $130.00 fee submitted May 30, 2006 will be credited to petitioner's deposit account no. 02-1435.

This application is being returned to Technology Center 2800, for further examination *in due course*.

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

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

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ST. PAUL, MN 55133-3427

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Clinton L. Jones :
Application No. 10/939,184 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket No.: 60139US002 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified 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 above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2872 for appropriate action on the amendment filed February 9, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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K&L Gates LLP
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

Mail Date: 04/21/2010

Applicant	: Caine Finnerty	: DECISION ON REQUEST FOR
Patent Number	: 7629069	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **736** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Macrovision.
Patent Department
Patent Counsel, M/S 2061
2830 De La Cruz Boulevard
Santa Clara, CA 95050

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JUN 10 2005

OFFICE OF PETITIONS

In re Application of: :
Basile et al. :
Application No. 10/939,186 : DECISION GRANTING
Filed: September 10, 2004 : STATUS UNDER
Title of Invention: : 37 CFR 1.47(a)
IMPROVEMENTS IN OR RELATING TO THE :
COPY PROTECTION OF OPTICAL DISKS :

This decision is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed April 29, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Glenn Allen Siebert, refuses to join in the application.

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

The application file is being referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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GLENN ALLEN SEIBERT
18355 SHADOWBROOK WAY
MORGAN HILL, CA 95037

In re Application of:
Basile et al.
Application No. 10/939,186
Filed: September 10, 2004
Title of Invention:
IMPROVEMENTS IN OR RELATING TO THE COPY PROTECTION OF OPTICAL DISKS

LETTER

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JUN 10 2005

OFFICE OF PETITIONS

Dear Dr. Seibert:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Macrovision.
Patent Department
Patent Counsel, M/S 2061
2830 De La Cruz Boulevard
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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NATIONAL STARCH AND CHEMICAL COMPANY
PO BOX 6500
BRIDGEWATER NJ 08807-3300

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of
Landa, et al. :
Application No. 10/939,204 : DECISION ON
Filed: September 10, 2004 : PETITION
Attorney Docket No. 3062A.PC :

This is in response to the paper titled "PETITION TO REVIVE AN ABANDONED APPLICATION", filed September 27, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, in view of petitioner's statement that a timely response was filed and request that the Notice of Abandonment be withdrawn and no petition fee be charged.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely respond to the non-final Office action mailed March 8, 2005. 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. No reply having been received, the above-identified application became abandoned on June 9, 2005. A Notice of Abandonment was mailed on September 20, 2005.

Petitioner has supplied a copy of an amendment, bearing a Certificate of Transmission under 37 CFR 1.8, dated August 3, 2005. In addition, petitioner has supplied a copy of a Fee Transmittal for a two month extension of time, also bearing a timely Certificate of Transmission under 37 CFR 1.8.

In view of the above, the holding of abandonment is withdrawn.

As the two month extension of time was never charged, that fee has now been charged to petitioner's deposit account. No petition fee has been charged.

The application file is being forwarded to Group Art Unit 1751 for consideration of the amendment filed September 27, 2005.

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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AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN NY 10591

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FEB 17 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Landa, et al.
Application No. 10/939,204
Filed: September 10, 2004
Attorney Docket No. SPG6614US1
For: INCREASED MOISTURIZATION EFFICACY USING HYDROXYALKYLUREA

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

This application became abandoned as a result of petitioners' failure to take appropriate action in a timely manner after the decision of March 20, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 21, 2008. *See* MPEP 1214.06. A Notice of Abandonment was mailed on April 9, 2008.

Applicants have submitted a RCE and required fee and amendment, an acceptable statement of the unintentional nature of the delay in responding to the March 20, 2008 Board decision, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1796 for consideration of the RCE and amendment filed on May 23, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
ANG, John
Application No.: 10/939,207
Filed: September 10, 2004
Attorney Docket No.: 9314-81

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

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

The Request is **APPROVED**.

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

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

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

550 West C Street
Suite 1200
San Diego CA 92101
Tel 619-235-8550
Fax 619-235-0176
www.kmob.com

OK TO ENTER: /JV/

09/08/2009

Raimond J. Salenieks
Patent Agent
rsalenieks@kmob.com

July 21, 2009

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

Re: Title: EMBEDDED METADATA ENGINES IN DIGITAL CAPTURE DEVICES
Letters Patent No. 7,403,224
Issued: July 22, 2008
Our Reference: VIRAGE.024C1

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with the above-identified patent.

As at least one of the errors cited in the Certificate of Correction was incurred through the fault of the Applicant, enclosed is our check in the amount of $100. Please charge any additional fees to our Deposit Account No. 11-1410.

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

Raimond J. Salenieks
Registration No. 37,924
Customer No. 20995

Enclosure

7473289 lj
071609

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,403,224
APPLICATION NO. : 10/939,216
ISSUE DATE : July 22, 2008
INVENTOR(S) : Charles Fuller, et al.

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

In Page 3, left Col., line 40-47, please delete "MultiMedia Access Corporation--Osprey-1000, printed from http://www.viewcast.com/osprey1000.html on Jun. 11, 1999 (6 pages).8.times.8, Inc.--Chip Solutions, "Semiconductors: VCP Single Chip Video Codec and Multimedia Communications Processor," printed from http://www.8.times.8.com/oemchips/vcp.html on Jun. 15, 1999 (1 page)."NEC develops world's first professional quality digital optical disk camera", printed from http://info.nec.co.ip/english/newsrel/9611/0701.html on Nov. 30, 1998 (2 pages)." and insert - - MultiMedia Access Corporation--Osprey-1000, printed from http://www.viewcast.com/osprey1000.html on Jun. 11, 1999 (6 pages). - -, therefor.

In Page 3, left Col., line 48-53 please delete "8.times.8, Inc.--Chip Solutions, "Semiconductors: VCP Single Chip Video Codec and Multimedia Communications Processor," printed from http://www.8.times.8.com/oemchips/vcp.html on Jun. 15, 1999 (1 page)."NEC develops world's first professional quality digital optical disk camera", printed from http://info.nec.co.ip/english/newsrel/9611/0701.html on Nov. 30, 1998 (2 pages)." and insert - - 8.times.8, Inc.--

MAILING ADDRESS OF SENDER:

Raimond J. Salenieks
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. VIRAGE.024C1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,403,224
APPLICATION NO. : 10/939,216
ISSUE DATE : July 22, 2008
INVENTOR(S) : Charles Fuller, et al.

Chip Solutions, "Semiconductors: VCP Single Chip Video Codec and Multimedia Communications Processor," printed from http://www.8.times.8.com/oemchips/vcp.html on Jun. 15, 1999 (1 page). - -, therefor.

In Page 3, right Col., line 13, please delete "Inernational" and insert - - International - -, therefor.

In Page 3, right Col., line 27, please delete "Flashpix" and insert - - FlashPix - -, therefor.

In Col. 4, line 21, please delete "operator" and insert - - operator. - -, therefor.

7067342 lj
042909

MAILING ADDRESS OF SENDER:

Raimond J. Salenieks
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. VIRAGE.024C1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/26/09

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10939216 Patent No.: 7403224 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Corrections are approved

/Sinh Tran/ 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :

LICATA :
Application No. 10/939,222 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. 8039-005-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 28, 2006.

The request is **APPROVED**.

A review of the file record indicates that Michael B. Farber: (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, Michael B. Farber 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 was signed by Michael B. Farber on behalf of all attorneys of record who are associated with customer No. 32301. All attorneys/agents associated with the Customer Number 32301 have been withdrawn.

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

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Carlo Licata**
1015 No. Lake Avenue, #313
Pasadena, CA 91104

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL - 8 2005

In re Application of	:	
Justin Voden	:	
Application No. 10/939,223	:	DECISION ON PETITION
Filed: September 10, 2004	:	
For: ROTARY GAME TABLE	:	

This is a decision on the petition to make special filed on December 16, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3711 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent there with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Timothy J. Ziolkowski
Ziolkowski Patent Solutions Group, Inc.
14135 N. Cedarburg Road
Mequon, WI 53097-1416

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/939,231	09/09/2004	Chuan Wang	1740-1311	4659

7590 04/09/2008

Chuan WANG
2 Kitson Park Drive
Lexington, MA 02421

EXAMINER	
LE, DIEU MINH T	
ART UNIT	**PAPER NUMBER**
2114	

MAIL DATE	DELIVERY MODE
04/09/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 09 2008

TECHNOLOGY CENTER 2100

CHUAN WANG
2 KITSON PARK DRIVE
LEXINGTON, MA 02421

In re Application of: Chuan WANG)
Application No. 10/939,231)
Filed: September 9, 2004) **DECISION ON PETITION TO MAKE**
For: SURROGATE REPLICATION) **SPECIAL UNDER 37 C.F.R. §1.102(d)**
MACHINE AND METHOD OF DISASTER) **AND M.P.E.P.§708.02(XI)**
RECOVERY FOR COMPUTERS)

This is a decision on the petition to make special filed October 14, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism. The delay in responding to the instant petition is regretted.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism. In accordance with 37 CFR 1.102(c)(2)(iii), no fee is required.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to: a method, machine and system for replicating an existing computer into a new computer. The specification is directed to the system and method to provide an effective technique to rapidly rebuild computers with minimum data loss in case of disaster.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and ***preventing*** "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or ***preventing acts*** that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

The mere fact that the instant invention acts to provide a method and system for replicating or rebuild computer data with minimum data loss after a disaster does not provide a sufficient nexus to "countering terrorism". Petitioner's states that the instant invention "will significantly reduce the impact and/or disruption due to loss of critical computer functioning ***caused by*** terrorism acts which destroy computer systems". Thus, Petitioner fails to establish a sufficient nexus between the disclosed and claimed invention and ***preventing*** "violent acts or acts dangerous to human life".

In addition, as set forth in MPEP §708.02(XI), "The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism". As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Hasegawa et al.	:	
Application No. 10/939,234	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. P/3541-68	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEAGATE TECHNOLOGY
333 SOUTH STREET
SHREWSBURY, MA 01545

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JAN 2 1 2009

In re Application of	:	
Daniel Joseph COONEN, et al	:	
Application No. 10/939,258	:	DECISION ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. STL12211	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2008 , to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 23, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 21, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 24, 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 $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. 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 Diane Goodwyn at (571) 272-6735.

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

Thurman Page
Petitions Examiner
Office of Petitions

cc : ALLISON OLENGINSKI
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN ST., SUITE 3000
DENVER, CO 80264

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10939258 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
11/25/2008	00000001	1	1453	$1,620.00	11/19/2008	CC
11/25/2008	00000002	1	1501	$1,510.00	11/19/2008	CC
11/25/2008	00000003	1	1504	$300.00	11/19/2008	CC
03/06/2008	00012849	4	1252	$460.00	03/06/2008	CC
03/06/2008	00012850	4	1801	$810.00	03/06/2008	CC
09/17/2004	00000175	1	8021	$40.00	09/10/2004	DA 191038
09/15/2004	00000124	1	1001	$770.00	09/10/2004	DA 191038

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PTO/SB/64 (10-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) STL12211/390-042-USP

First named inventor: Daniel Joseph Coonen

Application No.: 10/939,258 Art Unit: 2627

Filed: September 10, 2004 Examiner: DAVIDSON, DAN

Title: METHOD AND SYSTEM FOR DETERMINING SPIN PAD LENGTH

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 $ 1620 (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 $ 1810.
☐ 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.

11/25/2008 SSANDAR1 00000001 10939258

01 FC:1453 1620.00 OP

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature — November 19, 2008 (Date)

Allison Oleinjnek — Typed or printed name — 56,509 — Registration Number, if applicable

Hensley Kim & Holzer, LLC — Address — 720-377-0773 — Telephone Number

1660 Lincoln St, Suite 3000, Denver, CO 80264 — Address

Enclosures:
☑ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: Issue Fee Transmittal

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

I hereby certify that this correspondence is being:

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

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

November 19, 2008 — Date

Signature

Shawn P. Powers — Typed or printed name of person signing certificate

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NOV 19 2008

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Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on November 19, 2008
Date

Signature

Shawn P. Powers

Typed or printed name of person signing Certificate

720-377-0770

Registration Number, if applicable | Telephone Number

U.S. Patent Application No: 10/939,258
Title: METHOD AND SYSTEM FOR DETERMINING SPIN PAD LENGTH
Filing Date: September 10, 2004
Attorney Docket No.: 390-042-USP

PTO FAX NO. 571-273-8300 MAIL STOP PETITION, Attn: Office of Petitions

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Transmitted herewith are:

1).PTO Form SB/64 - Petition for Revival of an Application for Patent Abandoned Unintentionally;

2) PTO Form SB/85 - Issue Fee Payment Transmittal; 3) PTO Form 2038 - Credit Card Payment Form

Total Pages in Transmission 5:

Please notify us immediately (720-377-0770) if there is a problem with receipt of this fax.

This collection of information is required by 37 CFR 1.8. 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 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on November 19, 2008
Date

Signature

Shawn P. Powers
Typed or printed name of person signing Certificate

Registration Number, if applicable

720-377-0770
Telephone Number

U.S. Patent Application No: 10/939,258
Title: METHOD AND SYSTEM FOR DETERMINING SPIN PAD LENGTH
Filing Date: September 10, 2004
Attorney Docket No.: 390-042-USP

PTO FAX NO. 571-273-8300 MAIL STOP PETITION, Attn: Office of Petitions

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Transmitted herewith are:

1) PTO Form SB/64 - Petition for Revival of an Application for Patent Abandoned Unintentionally;
2) PTO Form SB/85 - Issue Fee Payment Transmittal; 3) PTO Form 2038 - Credit Card Payment Form

Total Pages in Transmission 5:

Please notify us immediately (720-377-0770) if there is a problem with receipt of this fax.

This collection of information is required by 37 CFR 1.8. 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 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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CHARLES E. BAXLEY, ESQ
90 JOHN STREET, THIRD FLOOR
NEW YORK, NY 10038

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Wen-Ko Wu	:	
Application No. 10/939,260	:	NOTICE
Filed: September 10, 2004	:	
Atty Dkt No. 14862 B (CFP-1971)	:	

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2839 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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MAR 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,239,870 :
Issued: July 3, 2007 :
Application No. 10/939,272 : ON PETITION
Filed: September 10, 2004 :
Attorney Docket Number: I-2-0664.1US :

This is a decision on the request for a Certificate of Correction filed January 4, 2008, 2007 under 37 CFR 1.323 to correct the name of the assignee.

The petition is **DISMISSED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted April 26, 2007, failed to correctly identify the assignee. However, the granting of a request under 37 CFR 3.81 (b)[1] 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.

Although the proper fees were paid, the instant request was not submitted with a petition under 37 CFR 3.81(b), and thus cannot be granted.

Any request for reconsideration under 37 CFR 3.81(b) 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.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

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

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

By FAX: (571) 273-8300
Office of Petitions

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/939,273	09/10/2004	Ward D. Parkinson	ITO.0565US (P19702)	3696

21906 7590 07/14/2008

TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

EXAMINER	
TORRES, JOSEPH D	
ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
07/14/2008	PAPER

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

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

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JUL 14 2008

TECHNOLOGY CENTER 2100

In re Application of:
Ward D. PARKINSON
Application No. 10/939,273
Filed: Sept. 10, 2004
For: USING A PHASE CHANGE MEMORY AS A HIGH VOLUME MEMORY

DECISION ON PETITION TO WITHDRAW THE 37 CFR § 1.105 REQUIREMENT FOR INFORMATION

This is a decision on the petition, filed on January 22, 2008, under 37 CFR 1.181 to withdraw the requirement for information under 37 CFR § 1.105.

The petition is **GRANTED**.

Applicant seeks to have the requirement under 37 CFR § 1.105 withdrawn or modified, or to determine that the information submitted to date is sufficient to meet any duty.

REGULATION AND PROCEDURES

37 CFR 1.105(a)(3) states that:

> Requirements for factual information known to applicant may be presented in any appropriate manner, for example:
>
> (i) A requirement for factual information;
> (ii) Interrogatories in the form of specific questions seeking applicant's factual knowledge; or
> (iii) Stipulations as to facts with which the applicant may agree or disagree.

MPEP § 704.11(a) states in-part that:

> ...
> (S) Interrogatories or Stipulations.
>
> (1) Of the common technical features shared among all claims, or admission that certain groups of claims do not share any common technical features,

(2) About the support found in the disclosure for means or steps plus function claims (35 U.S.C. 112, paragraph 6),
(3) Of precisely which portion(s) of the disclosure provide the written description and enablement support for specific claim element(s),
(4) Of the meaning of claim limitations or terms used in the claims, such as what teachings in the prior art would be covered by particular limitations or terms in a claim and which dictionary definitions would define a particular claim term, particularly where those terms are not used per se in the specification ...
(5) Of which portions of each claim correspond to any admitted prior art in the specification, ...

MPEP § 704.11(b) states:

> A requirement for information under 37 CFR § 1.105 is discretionary. A requirement may be made at any time once the necessary for it is recognized and should be made at the earliest opportunity after the necessity is recognized ...

MPEP § 704.11(b)(III) states:

> A requirement for information made after the first action on the merits may be appropriate when the application file justifies asking the applicant if he or she has information that would be relevant to the patentability determination. It is rarely appropriate to require information because of a lack of relevant prior art after the first action on the merits.
> **A requirement for information is not proper when no further action would be taken by the examiner**. The reasonable necessity criteria for a requirement for information implies further action by the examiner. This means that actions in which requirements for information necessary for examination are made should generally be a non-final action because the applicant's reply must be considered and applied as appropriate.[emphasis added]

MPEP § 1214.04 states in pertinent part:

> If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection...

Relevant Facts

On April 16, 2007, the Examiner made an initial requirement under 37 CFR § 1.105.

On July 16, 2007, a first response to the requirement made on April 16, 2007 was filed.

On August 10, 2007, the Examiner modified the requirement made previously and attempted to add clarify remarks.

On October 12, 2007, a response to the requirement of August 10, 2007 was filed.

On October 26, 2007, a further modified requirement under 37 CFR § 1.105 was made.

On January 22, 2008, Applicant filed a petition to withdraw, modify or to determine the response to be sufficient to the requirement for information mailed on October 26, 2007, having originated in a request mailed on April 16, 2007.

On April 28, 2008, a final Office action rejection was mailed in which the Examiner again modified the requirement made previously.

Decision

A review of the file record indicates that the Examiner's requirement, initially presented in the Office action of April 16, 2007 and modified in a requirement mailed on April 28, 2008, is not consistent with 37 CFR § 1.105 and in particular with the guidance outlined in MPEP § 704.11(b)(III) which states: **A requirement for information is not proper when no further action would be taken by the examiner**, as is apparent in the case in the instant application. This is evidenced by the most recent Office action (final rejection mailed April 28, 2008), which is in fact a complete Office action on the merits.

For the above stated reason, the petition is **GRANTED**. The requirement for information under 37 CFR § 1.105 is improper and has been WITHDRAWN. The application is being forwarded to the Examiner for prompt treatment and appropriate action of the Appeal Brief filed June 12, 2008.

Any question concerning this decision should be directed to Brian Johnson whose telephone number is 571-272-3595.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Ward D. Parkinson	: DECISION ON REQUEST FOR
Patent Number	: 7590918	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **477** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STAMFORD, CT 06901

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OFFICE OF PETITIONS

In re Application of :
Richard H. SELINFREUND, et al. :
Application No. 10/939,281 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. VT1-7012 1(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 January 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Marvin R. Wachs on behalf of the attorneys of record associated with Customer No. 47670.

The attorneys of record associated with Customer No. 47670 have been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD H. SELINFREUND
1285 MOOSE HILL ROAD,
GUILFORD, CT 06437

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JUL -1 2005

In re Application of:	:	
Jamie Watson	:	
Application No.: 10/939,283	:	DECISION ON PETITION
Filed: September 10, 2004	:	
For: SAFE BALLOON NECK CLOSURE DEVICE AND METHOD	:	

This is a decision on the petition to make special filed September 10, 2004. The petition is submitted pursuant to the practice established in MPEP §708.02(I) "Manufacture." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioner has satisfied all of the requirements of the above cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution.

The Supervisory Patent Examiner of Patent Examining Art Unit 3714 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent therewith.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Kenneth A. Roddy
2916 West T.C. Jester Blvd., Suite 100
Houston, TX 77018

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OFFICE OF PETITIONS

Applicant: Petrenko
Appl. No.: 10/939,289
Filing Date: September 9, 2004
U.S. Patent No.: 7,034,257
Issue Date: April 25, 2006
Title: METHODS FOR MODIFYING FRICTION BETWEEN AN OBJECT AND ICE OR SNOW
Attorney Docket No.: 424764
Pub. No.: US 2005/0035110 A1
Pub. Date: February 17, 2005

This is in response to the "Request for A Corrected Or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on April 18, 2005, for the above-identified application.

The request is DISMISSED as moot.

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

Since the application has already issued as U.S. Patent No. 7,034,257 on April 25, 2006, the request is deemed moot.

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

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

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

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THE ECLIPSE GROUP LLP
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GRANADA HILLS, CA 91344

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OFFICE OF PETITIONS

In re Application of

Martin Opitz
Application No. 10/939,298
Filed: September 10, 2004
Attorney Docket No. P04115US

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 June 15, 2009.

The request is **APPROVED**.

A review of the file record indicates that John F. Nethery: (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, John F. Nethery 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).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of
Moustafa Elshafei
Application No. 10/939,301
Filed: September 9, 2004
Attorney Docket No. SMC1P0125C1/8061-920

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

This decision is in response to the petition filed March 14, 2005, under 37 CFR 1.47(b), in response to the Notice to File Missing Parts "Notice" mailed November 8, 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, naming Moustafa Elshafei as the sole inventor, was filed on September 9, 2004 without an executed oath or declaration. Accordingly, on November 8, 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, the present petition was filed.

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) proof of irreparable damage.

The petition lacks items (2), (5) and (6).

As to item (2), an oath or declaration for the patent application in compliance with 37

CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

As to item (5), petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] Petitioners should provide a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant. The Intellectual Property Rights and Confidential Agreement submitted as "Exhibit A" is not signed by Moustafa Elsafei.

Finally, as to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

Additionally, it should be pointed out that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 50-0388 will be charged in the amount of $200.00, pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
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---

[1] MPEP 409.03(b).

[2] MPEP 409.03(f).

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

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OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of :
Moustafa Elshafei :
Application No. 10/939,301 : DECISION ACCORDING STATUS
Filed: September 9, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. SMC1P0125C1/8061-920 :

This is in response to the renewed petition filed under 37 CFR 1.47(b) on August 3, 2005 (certificate of mail date).

The petition is **GRANTED**.

The above-identified application, naming Moustafa Elshafei as the sole inventor, was filed on September 9, 2004 without an executed oath or declaration. Accordingly, on November 8, 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, a petition was filed March 14, 2005, accompanied by the late filing surcharge and a two (2) month extension of time. On May 3, 2005, the petition was dismissed because an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 had not been presented and because the petition lacked proof of proprietary interest and irreparable damage.

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) proof of irreparable damage.

In response to the decision dismissing the petition filed March 14, 2005, an oath or declaration executed by an officer of the Corporation, for the assignee and on behalf of the non-signing inventor as well as proof of proprietary interest and of irreparable

damage has been presented. All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 2654 for examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MOUSTAFA ELSHAFEI
14 AMUNDSEN CRESCENT
OTTAWA, ONTARIO CANADA

In re Application of
Moustafa Elshafei
Application No. 10/939,301
Filed: September 9, 2004
Title of Invention: APPARATUS AND METHOD FOR CHANGING THE PLAYBACK RATE OF RECORDED SPEECH

Dear Mr. Elshafei:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of
Mennett, et al.
Application No. 10/939,313
Filed: September 10, 2004
Attorney Docket No. KALSEC 42

: DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed December 15, 2004 to accord a filing date of September 10, 2004 to the above-identified application.

The application was deposited on September 10, 2004. However, on November 5, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on September 10, 2004 describes drawing figures but there is no formal "FIGURES" section of the application.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition 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.)

This application contains method claims. In view of the above, the "Notice" mailed November 5, 2004 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of September 10, 2004. The petition under 37 CFR 1.53(e) is **GRANTED**.

Regarding finances, the current 53(e) petition fee is $400.00. Petitioners paid $130.00. Accordingly, deposit account no. 08-3220 was charged an additional $270.00. Because the application should have been accorded a filing date based on what was filed on September 10, 2004, the $400.00 petition fee will be credited to deposit account no. 08-3220.

It is noted that the application filed on September 10, 2004 contains drawing figures embedded in the text of the specification. 37 CFR 1.77 requires applicants to place the drawing figures **after** the specification. The Office should have accorded a filing date to the application and mailed a "Notice

of Informal Application."

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **September 10, 2004**. The September 10, 2004 filing date is accorded because of the presence of method claims. The Office of Initial Patent Examination will review the substitute specification and sheets of drawing figures to determine whether they comply with the requirements that should have been listed in the "Notice of Informal Application" that was never sent.

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

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

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/26/05

2 Serial/Patent # 10/939,313

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition		12/15/04	$ 270 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 400

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 0 8 -- 3 2 2 0

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Method claims - app entitled to filing date on day 1 w/o drwgs.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E Shirene Willis TITLE: Pet Attny

SIGNATURE: E Shirene Willis PHONE: 272-3230

OFFICE: Office of Petitions

****

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APPROVED: Alicia Keller DATE: 2/4/05

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Crystal Park One, Room 802B

FORM PTO 1577
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OFFICE OF PETITIONS

In re Application of
Erik BOMAN, et al.
Application No. 10/939,324
Filed: Filed 10, 2004
Attorney Docket No. **060621-1902**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Gormick et al.	:	
Application No. 10/939,333	:	DECISION REFUSING
Filed: September 14, 2004	:	STATUS UNDER
Attorney Docket No. 2219.0050002	:	37 CFR 1.47(a)
For: Multi-Function Travel Case	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 14, 2004.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 14, 2004, without the signatures of three inventors on the declaration. On September 14, 2004, applicants filed the present petition with a declaration signed by three of six joint inventors. In the Statement of Facts, Thomas C. Fiala states that on April 17, 2004, Mr. Todd M. Gormick sent each of the nonsigning inventors a letter to their last known address, enclosing a copy of the above-identified application and an unexecuted declaration. Mr. Gormick did not receive a response to his letters from any of the nonsigning inventors. Mr. Fiala further states that on August 5, 2004, he sent a second letter via Federal Express to each of the nonsigning inventors at their respective last known address, enclosing a copy of the application papers and an unexecuted declaration. According to Federal Express the letters to inventors Yeung and Rochat were successfully delivered. However, no response has been received. The letter to inventor Nassanian

could not be delivered because he could not be found at his last known address. The letter to inventor Nassanian was returned by Federal Express as undeliverable on August 25, 2004.

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

As to item (1), the Office notes that applicants have failed to submit sufficient evidence to prove that diligent efforts have been made to locate non-signing inventor Nassanian. See MPEP 403.03(d).

If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate non-signing inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicants should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search. Furthermore, the Office notes that a brief internet search indicates that inventor Nassanian may be residing in Pasadena, CA.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Senior Petitions Attorney Christina Tartera Donnell:

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

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

By hand:
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries 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

ON PETITION

In re Application of :
Gormick et al. :
Application No. 10/939,333 :
Filed: September 14, 2004 :
Attorney Docket No. 2219.0050002 :
For: Multi-Function Travel Case :

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 16, 2005.[1]

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary. Accordingly, the petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This file is being forwarded to Technology Center Art Unit 3727.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1]Petitioners obtained an extension of time for response within the fifth month. Accordingly, the petition is timely filed.

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OFFICE OF PETITIONS

Applicant: Sandner et al.
Appl. No.: 10/939,337
Filing Date: September 14, 2004
Title: PREPARATIONS BASED ON WATER AND/OR ORGANIC SOLVENTS AND THEIR USE AS A FINISH ON FLAT MATERIALS
Attorney Docket No.: 031309-008
Pub. No.: US2005/0085573-A1
Pub. Date: April 21, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 21, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, as claims 1-4 have improperly been omitted from the publication.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,354,458 on April 8, 2008, the request is deemed moot.

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

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

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OFFICE OF PETITIONS

In re Application of
Gormick et al.
Application No. 10/939,346
Filed: September 14, 2004
Attorney Docket No. 2213.0050001
Title: MULTI-FUNCTION TRAVEL CASE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed September 14, 2004, under 37 CFR. §1.47(a).

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

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

The above-identified application including a petition under 37 CFR 1.47(a) was filed on September 14, 2004.

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

As to item (1), where an inventor cannot be located/reached as in the case of inventor Nassanian, rule 47 applicant must demonstrate diligent effort was made to find or reach a non-signing inventor. See MPEP 409.03(d). The statements made in the petition do not illustrate "diligent effort" was made to locate inventor Nassanian. Rule 47 applicant cannot establish the application papers mailed to inventor Nassanian were received. The fact that a second mailing was undeliverable because the addressee's address was unknown, does not present a convincing argument that the original mailing of the application papers was received by Nassanian. Rule 47 applicant should demonstrate what efforts

were used to locate inventor Nassanian. Did petitioner attempt to contact inventor Nassanian via -email? Did rule 47 applicant search for inventor via an electronic database? Did applicant ask the other inventors or colleagues for an address for inventor Nassanian? Was an attempt made to contact inventor Nassanian via telephone? Petitioner should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventor. Applicant should present copies of documentary evidence that support a finding that the non-signing inventor could not be found or reached and the steps taken to locate the non-signing inventor. Accordingly, Rule 47 applicant failed to show or provide proof the inventor received and refused to execute the application papers or can not be reached despite diligent effort. If inventor Nassanian is located a copy of the application papers should be mailed to his mailing address.

Rule 47 applicant has established that inventors Yeung and Rochat refuse to execute the declaration.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship of all inventors pursuant to 37 CFR 1.63 (a)(3). Specifically, the declaration failed to provide the citizenship of inventors Nassanian, Chang and Rochat. On renewed petition, a newly executed declaration is required.

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 220 20th Street S. Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Todd Gormick, Stanley Wada, Hrag	:	DECISION GRANTING STATUS
Nassanian, Grace Chang, Hing Yeung and	:	UNDER 37 CFR 1.47(a) AND 37 CFR
Alex Rochat	:	1.183
Application No.10/939,346	:	
Filed: September 14, 2004	:	
Attorney Docket Number: 2219.0050001	:	
Title of Invention: Multi-Function Travel Case	:	
	:	

This is in response to the renewed petition under 37 CFR 1.47(a), and the petition for waiver under 37 CFR 1.183 of requirement for supplemental Declaration under 37 CFR 1.67 filed May 27, 2005.

The petition under 37 CFR 1.47(a) is GRANTED.
The petition under 37 CFR 1.183 is GRANTED.

Petition under 37 CFR 1.47

Petitioner has shown that the non-signing inventors Yeung and Rochat have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition and evidence presented shows that correspondence sent to the non-signing inventors was received and 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.

Petition under 37 CFR 1.183

Once an oath or declaration has been executed by an inventor the provisions of 37 CFR 1.47 no longer apply. Rather the remedy for treating an inventor's refusal to sign a supplemental declaration is waiver of 37 CFR 1.67. See MPEP 603. Nevertheless, it is appropriate to apply the principles of 37 CFR 1.47 thereof to the situation at hand. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate and on behalf of the non-signing inventor. See MPEP 409.03(a).

On petition, applicants have set forth the steps taken to obtain Grace Chang's signature on the supplemental declaration. Applicants have shown that a *bona fide* effort was made to present the supplemental declaration and supporting documentation to inventor Chang for signature and that by her conduct, inventor Chang has refused to execute the declaration. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

This application does not have any Rule 1.47(a) status as to inventor Chang.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alex Rochat
621 S. Pasadena #3
Pasadena, California 91105

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OFFICE OF PETITIONS

In re Application of
Todd Gormick, Stanley Wada, Hrag Nassanian, Grace Chang, Hing Yeung and Alex Rochat
Application No.10/939,346
Filed: September 14, 2004
Attorney Docket Number: 2219.0050001
Title of Invention: Multi-Function Travel Case

: LETTER

Dear Mr. Rochat:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

ATTN: THOMAS C. FIALA

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hing Yeung
661 Shatto Place
Apartment 406
Los Angeles, California 90005

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OFFICE OF PETITIONS

In re Application of
Todd Gormick, Stanley Wada, Hrag Nassanian, Grace Chang, Hing Yeung and Alex Rochat
Application No.10/939,346
Filed: September 14, 2004
Attorney Docket Number: 2219.0050001
Title of Invention: Multi-Function Travel Case

LETTER

Dear Mr. Yeung:

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

ATTN: THOMAS C. FIALA

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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
Ben M. Hsia
Application No. 10/939,349
Filed: September 14, 2004
Attorney Docket No. 041781-5060

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed September 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Taiwan Application No. 093211088, filed July 14, 2004.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 14, 2004, which is after November 29, 2000 and within 12 months of July 14, 2004 (the filing date of the foreign application to which benefit is now being claimed). An executed oath/declaration has been received to identify the foreign application. The required petition fee of $1370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. 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 Replacement Filing Receipt accompanies this decision on petition.

This application is being referred to Technology Center AU 3711 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Exaniner
Office of Petitions

ATTACHMENT: Replacement Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/939,349	09/14/2004	3711	385	041781-5060	2	1

CONFIRMATION NO. 5445

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

REPLACEMENT FILING RECEIPT

OC000000022989547

OC000000022989547

Date Mailed: 03/20/2007

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)

Ben M. Hsia, Northridge, CA;

Power of Attorney: The patent practitioners associated with Customer Number **009629**.

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 093211088 07/14/2004

If Required, Foreign Filing License Granted: 11/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/939,349

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SWING DEVICE WITH A DRIVING UNIT

Preliminary Class

472

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO
MORIN & OSHINSKI, LLP
2101 L STREET NW
WASHINGTON, DC 20037

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Ryoji Inaba	:	
Application No. 10/939,388	:	
Filed: September 14, 2004	:	ON PETITION
Attorney Docket No.:	:	
H6807.0002 P002-A	:	

This is a decision on the Petition in Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed January 13, 2005, requesting the above-identified application be accorded a filing date of September 14, 2004, including page 12 of the specification.

The application was filed on September 14, 2004. On November 30, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, page 12 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that page 12 of the specification was originally filed with the application on September 14, 2004, and was received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 49 pages of specification, claims and abstract in the above-identified application by this Office on September 14, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 49 pages of specification, claims and abstract in the above-identified application by this Office on September 14, 2004.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

Applicant also notes that the above-identified application is a divisional of parent application no. 09/815,329, the contents of which, including page 12, are incorporated by reference into the above-identified application.

Applicant is advised that a petition is not the appropriate venue when seeking to add an omitted item to an application. The Manual of Patent Examining Procedure ("MPEP") provides that

> [i]f a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed included a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)". Applicant should submit the amendment adding the omitted material prior to the first Office action on to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

MPEP 201.06(c)B.

The copy of page 12 of the specification, filed with the instant petition on January 13, 2005, will be used for examination purposes.

A refund of the petition fee has been scheduled[1], as requested in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 14, and an indication that 49 pages of specification, claims and abstract were present on filing, using page 12 of the specification filed with the instant petition on January 13, 2005.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] Petitioner is advised that the petition fee is among many fees that have increased as of December 8, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/04/09

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10939413 Patent No.: 7474500 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 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: No Comment

SPE AU 2627

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,474,500

DATED : January 6, 2009

INVENTOR(S) : Myung-il KIM

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

First Page, Column 1 (Title), Line 1, change "HARD DISK HAVING AIR GUIDE" to --HARD DISK DRIVE HAVING AIR GUIDE--.

Column 1 (Title), Line 1, change "HARD DISK HAVING AIR GUIDE" to --HARD DISK DRIVE HAVING AIR GUIDE--.

Column 6, Line 17, change "near" to --in sufficiently close proximity to--.

Column 6, Line 18, change "head, and" to --head--.

Column 6, Line 19, change "directed toward" to --direct the air flow away from--.

Column 6, Line 21, after "of" delete "in".

Column 6, Line 31, change "base" to --cover--.

Column 6, Line 60, change "near" to --in sufficient proximity to--.

Column 6, Line 61, change "head, and" to --head--.

Column 6, Line 62, change "directed toward" to --direct the air flow away from--.

Column 6, Line 64, after "claimed" delete "of".

Column 8, Line 1, after "in" delete "of".

Column 8, Line 2, change "base" to --cover--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,474,500

No. of add'l copies
@ 304 per page

FEB 2 0 2009

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MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Maguire, et al. :
Filed: September 14, 2004 : ON PETITION
Application No. 10/939,422 :
Dkt. No.: 84799 HJL/JH/8957US :

This decision is in response to the "LETTER" submitted January 3, 2005 in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed November 23, 2004.

This letter is being treated as a petition to accord the above-identified application a filing date of September 14, 2004.

The application was filed September 14, 2004. The Notice indicated, *inter alia*, that the application had not been accorded a filing date because the application appeared to have been submitted without drawings. See, 35 USC 113.

In response, petitioners herein argue that the application as deposited included ten sheets of informal drawings. Petitioners have included as proof of mailing and proof of receipt of the ten sheets of informal drawings a return postcard date stamped by the Office on September 14, 2004. A copy of the ten sheets of informal drawings purportedly filed with the application on September 14, 2004 was also supplied.

The original ten sheets of informal drawings submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of September 14, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 14, 2004.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON, VA 22201-2909

MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Robert Barnhouse, et al. :
Application No. 10/939,430 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. RIC97110C4 :

This is a decision in response to the petition, filed March 24, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 11, 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 12, 2008. A Notice of Abandonment was mailed on February 4, 2009. March 24, 2009, the present petition was filed.

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

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received March 24, 2009.

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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DON W. WEBER
235 BRISTOL
TROY, IL 62294

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Martin, Charles B.	:	DECISION ON PETITION
Application No. 10/939,440	:	TO WITHDRAW
Filed: September 14, 2004	:	FROM RECORD
Attorney Docket No. 366	:	

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 4, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 32823 has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

HAVERSTOCK, GARRETT & ROBERTS LLP
611 OLIVE STREET
SUITE 1610
ST. LOUIS MO 63101

CHARLES B. MARTIN
403 E. HOLLAND STREET
WASHINGTON, IL 61571

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OFFICE OF PETITIONS

DR. ALYN P. ROCKWOOD
18375 HIGHLAND ESTATES DRIVE
COLORADO SPRINGS, CO 80908-1568

In re Application of :
Alyn P. Rockwood :
Application No. 10/939,442 : DECISION GRANTING PETITION
Filed: September 14, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 345/420 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed November 1, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2005.

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

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

Karen Creasy

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

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JUL 20 2006

Lowell Stephen Jordan
19823 Avenida Rosella
Murrieta CA 92562

In re Application of :
Lowell S. Jordan :
Serial No.: 10/939,446 : DECISION ON PETITION
Filed: September 14, 2004 :
For: Intravaginal Fertility Plug :

This is in response to applicants' petition filed Septemer 14, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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MAY 13 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
UEJO, HIROYOSHI	:	DECISION ON PETITION
Application No. 10/939,458	:	TO RESET PERIOD
Filed: September 14, 2004	:	FOR REPLY
For: **PRINT MANAGEMENT**	:	

This is a decision on the petition filed on March 27, 2008, requesting that the Office action mailed on February 22, 2008 be re-mailed and the shortened statutory period for response thereto, be reset.

A review of the record indicates that the Office action mailed February 22, 2008 was returned to the Patent and Trademark Office by the U.S. Postal Service as undeliverable. This returned mail is prima facie evidence of non-receipt of the Office action by applicant. A further review of the file finds that the office action was re-mailed on March 31, 2008.

Accordingly, the petition is **Dismissed as moot.**

The Office action mailed February 22, 2008 is hereby VACATED and the shortened statutory period for response that was originally set forth in the Office action mailed on February 22, 2008 has been reset to run THREE MONTHS FROM THE MAILING DATE OF THE NEW OFFICE ACTION of March 31, 2008.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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JUN 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Okada, et al.
Application No. 10/939,470
Filed: September 14, 2004
For: MANAGEMENT OF MULTIPLE GENERATIONS OF BACKUP DATA

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

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

BLJ: 6/15/05

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June 4, 2007

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

Patent No.: 7095117 B2
Application No.: 10/939491
Inventor(s): **Motoo Suwa, et al.**
Issued: **August 22, 2006**
Title: **SEMICONDUCTOR DEVICE AND AN ELECTRONIC DEVICE**

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

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

Virginia Tolbert
For 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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MAY 11 2010

OFFICE OF PETITIONS

Fitzpatrick Cella Harper & Scinto
1290 Avenue of the Americas
New York, NY 10104-3800

In re Hideki Dobashi
Application No.: 10/939,508
Filed: September 14, 2004
Patent No.: 7,135,666
Issued: November 14, 2006

: **DECISION**
: **DISMISSING**
: **PETITION**

This is a decision on the September 3, 2008 petition titled "Petition Under 37 CFR § 1.183 To Correct Assignee Information And Request To Reprint Letters Patent With Correct Assignee Information," which requests the Office to reprint U.S. Patent No. 7,135,666 ("the '666 patent") with the correct name of the assignee ("the September 3, 2008 petition").

A petition fee under 37 CFR 1.17(f) of $400.00 has been charged to Deposit Account No. 50-3939, pursuant to the authorization at page 1 of the September 3, 2008 petition.

The September 3, 2008 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The September 3, 2008 petition is **dismissed**.

The '666 patent issued on November 14, 2006, from application No. 10/939,508 ("the '508 application"). The Image File Wrapper record for the '508 application reveals, *inter alia*, the filing of:

(i) a Part B – Fee(s) Transmittal PTOL-85 form on September 29, 2006, identifying "Canon Kabushiki Kaishi" as the Name of Assignee; and

(ii) a Request For Certificate Of Correction Under 37 C.F.R. § 1.323 on August 14, 2008, requesting the Office to delete, *inter alia*, "Canon Kabushiki Kaishi, Tokyo (JP)" from the Title Page of the '666 patent and insert therefor "Canon Kabushiki Kaisha (Tokyo, JP)."

Of note, the issue fee was paid concurrently with the September 29, 2006 submission of the Part B – Fee(s) Transmittal PTOL-85 form. Also of note, the August 14, 2008

Request was filed under 37 CFR 1.323, a rule reserved for "correction of applicant's mistake," i.e., a mistake which was not the fault of the Office.

35 U.S.C. 254 is titled "Certificate of correction ***of Patent and Trademark Office mistake***" (emphasis added) and is the sole provider of statutory authority for the Office to reprint a corrected patent.[1] Notably, 35 U.S.C. 255, which is titled "Certificate of correction ***of applicant's mistake***" (emphasis added), does not mention a corrected patent.

37 CFR 1.322(b) is the regulation implementing 35 U.S.C. 254; it provides:

> If the nature of the ***mistake on the part of the Office*** is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee. [Emphasis added.]

Thus, reprinting a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office. The Office has no statutory authority to reprint a corrected patent for a mistake in a patent that was not a mistake on the part of the Office. For the reasons below, it was not a mistake on the part of the Office for the '666 patent to issue with "Canon Kabushiki Kaishi" identified as the Assignee.

As an initial matter, it is noted that petitioner does not dispute that the mistake that caused the '666 patent to issue with "Canon Kabushiki Kaishi" identified as the Assignee was not a mistake on the part of the Office. At page 2 of the September 3, 2008 petition, petitioner states that the misspelling of the assignee name was introduced by an inadvertent error on the part of patentee's attorneys.

Further, 37 CFR 3.81(a) and (b) provide:

> a) With payment of the issue fee: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.
>
> (b) 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

[1] The last line of 35 U.S.C 254 states that "[t]he Director may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction."

> 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.

Also, MPEP 1481.01 provides:

> The Fee(s) Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in the appropriate space for specifying the assignee, (i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B), the patent will issue to the applicant. **Assignment data printed on the patent will be based solely on the information so supplied.** [Emphasis added.]

Therefore, it was in accordance with proper Office procedure, as set forth at 37 CFR 3.81 and MPEP 1481.01, that the '666 patent was printed with the assignment data supplied at item 3 of the Fee(s) Transmittal Form PTOL-85B submitted concurrently with payment of the issue fee, *i.e.*, the assignment data supplied at item 3 of the September 29, 2006 Part B – Fee(s) Transmittal PTOL-85 form.[2]

Consequently, it was not a mistake on the part of the Office for the '666 patent to issue with "Canon Kabushiki Kaishi" identified as the Assignee. Accordingly, the Office has no statutory authority to reprint a corrected version of the '666 patent.

At page 2, the September 3, 2008 petition requests the Office "to waive 37 CFR 3.81(b) and permit the assignee information to be corrected after issuance of the patent, by ... reprinting a new original Letters Patent." However, as explained above, 35 U.S.C. 254 is the sole provider of statutory authority for the Office to reprint a corrected patent. That statute requires the mistake to be corrected in a patent to be a mistake on the part of the Office for the Office to be able to reprint the corrected patent. By its express terms, 37 CFR 1.183 cannot be invoked to the contrary of any requirement of a statute. Therefore, 37 CFR 1.183 cannot be invoked to request reprinting of the '666 patent, because it was not a mistake on the part of the Office for the '666 patent to issue with "Canon Kabushiki Kaishi" identified as the Assignee.

In addition, to obtain relief under 37 CFR 1.183, the fact-situation must be shown to be "an extraordinary situation." The September 3, 2008 petition presents no facts at all showing that petitioner's situation is an extraordinary situation.

---

[2] See also: MPEP 307.

For all of the foregoing reasons, the September 3, 2008 petition requesting reprinting of the '666 patent with corrected assignee information is **dismissed**.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

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JUN 19 2007

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
Uichi SEKIMOTO	:	DECISION ON PETITION
Application No. 10/939,513	:	
Filed: September 14, 2004	:	
Title: Voltage Controlled Oscillator and PLL Circuit	:	

This is a decision on the petitions filed March 20, 2007 and April 18, 2007, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Final rejection was mailed on July 20, 2006, setting a three-month period of response.

Petitioner asserts that an Amendment, a Petition for a Three-Month Extension of Time, a Notice of Appeal and the corresponding fees were timely filed on January 22, 2007 as evidenced by copies of the Amendment, the Petition for a Three-Month Extension of Time, the Notice of Appeal and the postcard receipt indicating receipt of all papers in the Patent and Trademark Office on January 22, 2007.

The review of the application file reveals that the Amendment, the Petition for a Three-Month Extension of Time and the Notice of Appeal were received but not matched with the file at the time the examiner held the application abandoned. A review of the PALM database reveals that the Three-Month Extension of Time fee and a Notice of Appeal fee was paid on January 23, 2007. Consequently, the application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Amendment and the Notice of Appeal. From there, it will be returned to the examiner for further prosecution.

The appeal brief is due 2 months from the mailing date of this decision. The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Inquiries regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Sharon Gibson, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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MAY 25 2005

Jenifer E. Haeckl, Esq.
Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street
Worcester, MA 01608-1477

In re application of : **DECISION ON PETITION**
William H. Brine : **TO MAKE SPECIAL**
Application No. 10/939,527 : **(APPLICANT'S AGE)**
Filed: September 13, 2004 :
For: METHODS FOR PROVIDING A MEMORIAL

This is a decision on the petition submitted on January 31, 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 William H. Brine 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: 5/18/05

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OSTRAGER CHONG FLAHERTY & BROITMAN, P.C.
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK, NY 10022-6894

Mail Date: 04/20/2010

Applicant	: Krishnan K. Sankaran	: DECISION ON REQUEST FOR
Patent Number	: 7614539	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Imad Libbus	: DECISION ON REQUEST FOR
Patent Number	: 7647114	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/939,544	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Patent No. 7,470,514 :
Ali et al. :
Issue Date: December 30, 2008 :
Application No. 10/939,560 : DECISION ON REQUEST FOR
Filed: September 13, 2004 : RECONSIDERATION OF
Attorney Dkt. No. DEX-0505 : PATENT TERM ADJUSTMENT
Title: Novel Method of :
Diagnosing, Monitoring, and :
Staging Prostate Cancer :
:

This is in response to the "Application For Patent Term Adjustment Determination Under 37 CFR 1.705(d)" filed January 7, 2009. Patentees request that the patent term be extended from 417 days to 825 days.

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

On December 30, 2008, the above-identified application matured into US Patent No. 7,470,514 with a patent term adjustment of 417 days. This request for reconsideration of patent term adjustment (including the required fee) 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 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 a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 410 of the 474 days[1], does not

[1] Petitioner's calculations show that the over three year time period from September 14, 2007 until the issuance of the patent on December 30, 2008 equates to 472 days of PTO Delay. Contrary to petitioner's calculations three years from the filing date until the issuance of the patent is 474 days

overlap with the 474 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Patentees contend that 64 days overlap from November 12, 2008 to December 30, 2008 as those periods occur on the same day.[2]

Thus, patentees request that the determination of patent term adjustment be increased by 410 days to a total of eight hundred twenty-five (827) days (410+474- 57). The 57 days of applicant delay are not in dispute.

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

---

(September 14, 2007 to December 30, 2008). Accordingly, this decision will use 474 days.

[2] Patentees fail to recognize that 25 days were accorded pursuant to 37 CFR 1.702(b).

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In 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, September 13, 2004 to December 30, 2008. This 474 days of pendency over three years is the relevant period for considering overlap.449 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §§1.702(a)(1) and (4). Entry of both 474 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 449 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 449 days and then another 474 days. The greater period, 474 days, is the actual number of days issuance of the patent was delayed by the Office. All but 25 days of the periods pursuant to 37 CFR §§1.702(a) and 1.702(b) overlap. Accordingly, at issuance the Office entered 25 additional days of patent term adjustment pursuant to 37 CFR 1.702(b) for a total Office delay of 474 days.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 417 days (449+25-57).

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 Charlema Grant, Petitions Attorney, at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/28/2010

Applicant	: Hiroyuki Manabe	: DECISION ON REQUEST FOR
Patent Number	: 7627470	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/939,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Jeffrey E. Stahmann	: DECISION ON REQUEST FOR
Patent Number	: 7610094	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON TX 77253-3267

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of

Sung, et.al

Application No. 10/939,592

Filed: September 13, 2004

Attorney Docket No. 2085-02500

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed August 5, 2009, which set a shortened statutory period for reply of three-months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on January 6, 2010.

The Request for Continued Examination filed April 1, 2010, is noted.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 1600, GAU 1631 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Suresan Sachi
Agency for Science, Technology and Research
1 Fusionopolis Way
#20-10
Connexis SINGAPORE 138632

PET DEC

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Chung Wan Han	
Application No.: Not yet assigned	Group Art Unit: Not yet assigned
Filed: Herewith	Examiner: Not yet assigned
Attorney Docket No.: 01053-1000	

For: ANTI-DIABETIC DIET AND METHOD FOR PROVIDING A PROPORTIONED GROUND FOOD

Assistant Commissioner for Patents
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 § C.F.R. 1.102(c) ON ACCOUNT OF APPLICANT'S AGE

Dear Sir:

Applicant hereby petitions under 37 C.F.R. § 1.102(a) and (c) to have the present application advanced for examination on account of the Applicant's age. 37 C.F.R. § 1.102(a) and (c) provide that:

> (a) Applications will not be advanced out of turn for examination... except as provided by this part, . . . or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Commissioner, will justify so advancing it.

> (c) A petition to make an application special may be filed without fee if the basis for the petition is the applicant's age....

The Manual of Patent Examining Procedure (MPEP) provides examples of showings that justify advancement. One such showing is for Applicant's age. Specifically, MPEP § 708.02 IV, sets forth that:

DEC - 2 2004

SN 10/939611

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

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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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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Strating et al.	:	
Application No. 10/939,614	:	DECISION ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No. BIL06 P-300	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 7, 2007. Accordingly, the date of abandonment of this application is May 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00 and the publication fee of $300.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FASTH LAW OFFICES
629 E. BOCA RATON ROAD
PHOENIX, AZ 85022

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of :
Martin Ragnar :
Application No. 10/939,616 : NOTICE
Effective Date: September 13, 2004 :
Attorney Docket No. 128.1092PAT :

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 Wan Laymon at (571) 272-3220.

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 21 2005

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of :
Michael Handfield et al :
Serial No.: 10/939,620 : DECISION ON PETITION
Filed: September 13, 2004 :
For:Smart Tray for Dispensing Medicaments:

This is in response to the petition applicant filed on April 11, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, 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 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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Alexandria, VA 22313-1450
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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Jean-Charles Aubert :
Application No.: 10/939,629 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No.: NVG-04-1214 :

This is a decision on the petition, filed April 27, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2617 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Herb Jahn	: DECISION ON REQUEST FOR
Patent Number	: 7625199	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/939,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Jeffrey E. Stahmann	: DECISION ON REQUEST FOR
Patent Number	: 7616988	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Jerimy Nelson et al :
Application No. 10/939,654 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. 200315859-1 :

This is a decision on the petition filed August 10, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 30, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 1, 2007.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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DEC 14 2005

TECHNOLOGY CENTER 3600

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of : **DECISION ON PETITION**
John Pratt et al. : **TO WITHDRAW THE**
Application No. 10/939,659 : **HOLDING OF ABANDONMENT**
Filed: September 13, 2004 :
For: PRESSURE RESPONSIVE BLOWOUT LATCH

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on August 01, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, received June 17, 2005 along with a three-month extension of time.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/rjc: 09/23/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

DANIEL L. GIRDWOOD
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MI 49501

COPY MAILED

JAN 0 3 2003

OFFICE OF PETITIONS

In re Application of:
David M. Gresham, James N. Ludwig,
Karl J. Mead, Karl Heinz Mueller
and Dale T. Kelley
Application No. 10/113,124
Filed: March 29, 2002
Title of Invention: BUILDING
OUTFITTING SYSTEM WITH COMMON
ACCESSORY-MOUNTING FEATURE

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed January 2, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Dale T. Kelley, refuses to sign the declaration after being presented with the above-identified application and declaration.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED

JAN 07 2003

PRICE, HENEVELD, COOPER
DEWITT & LITTON
PER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Dale T. Kelley
7456 Bowman Road
Middleville, MI 49333

In re Application of:
In re Application of:
David M. Gresham, James N. Ludwig,
Karl J. Mead, Karl Heinz Mueller
and Dale T. Kelley
Application No. 10/113,124
Filed: March 29, 2002
Title of Invention: BUILDING
OUTFITTING SYSTEM WITH COMMON
ACCESSORY-MOUNTING FEATURE

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OFFICE OF PETITIONS

LETTER

Dear Mr. Kelley:

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 Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DANIEL L. GIRDWOOD
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MI 49501

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

In re Application of Brouse et al. :
Application No. 10/939,678 : Decision on Petition
Filing Date: September 13, 2004 :
Attorney Docket No. TI-37707 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 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, the above-identified application became abandoned on September 13, 2006. A Notice of Abandonment was mailed on October 23, 2006.

The instant petition requests revival of the application.

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

Petitioner filed a Request for Continued Examination under §1.114 (and RCE Fee) and submission (an amendment) as the proposed reply. However, 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.

37 CFR 1.137(c) states,

> In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

Both 35 U.S.C. 41(a)(7) and 151 require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. A reply that serves to

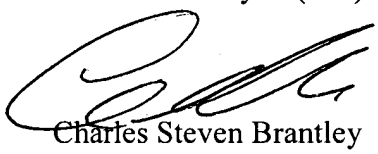
continue prosecution in an application, such as an RCE, is not sufficient to satisfy either §151 or 41(a)(7). The Commissioner does not have the authority to waive these statutory requirements.

For the reasons above, the issue fee has been charged to petitioner's deposit account.

Petitioner is advised that the issue fee paid on November 15, 2006, with the petition, cannot be refunded in the future. However, the issue fee may be applied towards the issue fee required by a new Notice of Allowance. In order to have the issue fee applied towards any fees required by a future Notice of Allowance, written instructions including such a request must be filed in response to the new Notice of Allowance. The publication fee of $300 has not been charged to petitioner's deposit account at this time.

Technology Center Art Unit 2819 will be informed of the instant decision and the examiner will consider the RCE and amendment filed November 15, 2006, in due course.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Francis X. Hursey	: DECISION ON REQUEST FOR
Patent Number	: 7595429	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **813** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NOV 1 3 2006

OFFICE OF PETITIONS

ZINOVY D. GRINBLAT
8 NINTH STR #616
MEDFORD, MA 02155

In re Application of :
Grinblat : DECISION ON PETITION
Application No. 10/939,703 :
Filed: September 14, 2004 :
For: HYBRID THERMODYNAMIC CYCLE :
AND HYBRID ENERGY SYSTEM :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely reply to the Office communication mailed March 3, 2006. The Office communication set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 27, 2006.

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

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to submit a proper reply to the Office communication. Petitioner alleges non-receipt of the Office communication, however, petitioner has provided no evidence to establish non-receipt in accordance with 37 CFR 1.181 and MPEP 711.03(c). In the absence of any irregularity in the mailing of the

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

Any renewed petition must include a proper reply to the outstanding Office action. As applicant alleges non-receipt of the Office communication, a courtesy copy is enclosed herewith.

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:	(51) 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

Enclosure: Copy of March 3, 2005 Office Communication

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/939,703	09/14/2004	Zinovy D. Grinblat		5000

7590 03/03/2006

ZINOVY D. GRINBLAT
8 NINTH STR #616
MEDFORD, MA 02155

EXAMINER	
GONZALEZ, JULIO C	

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 03/03/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/939,703	GRINBLAT, ZINOVY D.	
	Examiner	Art Unit	
	Julio C. Gonzalez	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-37 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, 16, 19, 25, 27, 32, drawn to hybrid thermodynamic cycle, classified in class 290, subclass 54.

II. Claims 20-23, drawn to method of maximum extraction of energy, classified in class 290, subclass 1R.

III. Claims 15, 17, 18, drawn to hybrid system with three stroke engine, classified in class 123, subclass 1.

IV. Claims 24, 36, drawn to method of increasing efficiency of energy system, classified in class 307, subclass 55.

V. Claims 28-31, drawn to method of maximum wind energy, classified in class 290, subclass 44.

VI. Claims 33-35, 37, 26 drawn to method of reduction of stress, classified in class 310, subclass 81.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as converting of low oscillation energy into heat energy. See MPEP § 806.05(d).

3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination III has separate utility such as using a three-stroke engine, solar converters, etc. See MPEP § 806.05(d).

4. Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as a method of increasing the efficiency by having the plants in series. See MPEP § 806.05(d).

5. Inventions I and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination V has separate utility such as method of static and teering of motion of wind turbines. See MPEP § 806.05(d).

6. Inventions I and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VI has separate utility such as method of reducing cost and not using oil as lubricant. See MPEP § 806.05(d).

7. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination III has separate utility such as using a three-stroke engine, solar converters, etc. See MPEP § 806.05(d).

8. Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as a method of increasing the efficiency by having the plants in series. See MPEP § 806.05(d).

9. Inventions II and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination V has separate utility such as method of static and teering of motion of wind turbines. See MPEP § 806.05(d).

10. Inventions II and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VI has separate utility such as method of reducing cost and not using oil as lubricant. See MPEP § 806.05(d).

11. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as a method of increasing the efficiency by having the plants in series. See MPEP § 806.05(d).

12. Inventions III and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination V has separate utility such as method of static and teering of motion of wind turbines. See MPEP § 806.05(d).

13. Inventions III and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VI has separate utility such as method of reducing cost and not using oil as lubricant. See MPEP § 806.05(d).

14. Inventions IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination V has separate utility such as method of static and teering of motion of wind turbines. See MPEP § 806.05(d).

15. Inventions IV and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VI has separate utility such as method of reducing cost and not using oil as lubricant. See MPEP § 806.05(d).

16. Inventions V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination VI has separate utility such as method of reducing cost and not using oil as lubricant. See MPEP § 806.05(d).

17. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper and because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is 571-272-2024. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julio C. Gonzalez
Examiner
Art Unit 2834

Jcg

March 1, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

ZINOVY D. GRINBLAT
8 NINTH STR #616
MEDFORD, MA 02155

In re Application of
Grinblat
Application No. 10/939,703
Filed: September 14, 2004
Docket No.: HYBRID THERMODYNAMIC CYCLE AND HYBRID ENERGY SYSTEM

: DECISION ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed December 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office communication mailed March 3, 2006. The Office communication set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed September 27, 2006.

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

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

This application is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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12/29/04

In re Application of	:	
STROMQUIST.	:	
Serial Number: 10/939,709	:	PETITION UNDER
Filed: September 13, 2004	:	M.P.E.P.708.02 IV
For: METHOD AND APPARATUS FOR INCREASING THE CAPACITY OF ION EXCHANGE RESINS	:	

This is in response to the petition filed September 13, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Sections 708.02 IV is granted because the criteria under 37 CFR 1.102 have been met.

Accordingly the petition is **GRANTED.**

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

Mallinckrodt & Mallinckrodt
10 Exchange Place, Suite 510
Salt Lake City, UT 84111

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Paper No.

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Lilip Lau et al.	:	
Application No. 10/939,721	:	DECISION ON PETITION
Filed: September 13, 2004	:	PURSUANT TO
Attorney Docket No. PARCR 69005	:	37 C.F.R. § 1.78(A)(3)
Title: CARDIAC HARNESS DELIVERY DEVICE AND METHOD	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(6), filed September 16, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed non-provisional application set forth in the concurrently filed amendment to the specification.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed non-provisional application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal sheet that was filed with the application.

Pursuant to MPEP § 201.06(c)(IV), "[f]or applications filed on or after September 21, 2004, a claim under 35 U.S.C. 120 and 37 CFR 1.78 for benefit of a prior-filed nonprovisional application or international application designating the U.S. that was present on the filing date of the continuation or divisional application is considered an incorporation by reference of the prior-filed application as to inadvertently omitted material, subject to the conditions and requirements of 37 CFR 1.57(a)."

Where a claim for priority under 37 C.F.R. § 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 C.F.R. §§ 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application 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 C.F.R. §§ 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and will be refunded to Petitioner's credit card in due course.

The application is being forwarded to Technology Center AU 3735 for appropriate action on the amendment filed September 16, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2] All other

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1 *Note* MPEP § 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

Anthony Knight
Supervisor
Office of Petitions

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MARK M. FRIEDMAN
DR. MARK FRIEDMAN LTD.
C/O BILL POLKINGHORN
9003 FLORIN WAY
UPPER MARLBORO MD 20772

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OFFICE OF PETITIONS

In re Application of :
Lev et al. :
Application Number: 10/939722 :
Filing Date: 09/13/2004 : ON PETITION
Attorney Docket Number: 1129/41 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on September 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 21, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on November 20, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on June 25, 2008.

Receipt of the issue and publication fee is acknowledged.

The application is referred to the Office of Data Management for processing into a patent.

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

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

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

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

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

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROUSE MCDOWELL, LPA.
388 S. MAIN STREET, SUITE 500
AKRON, OH 44311

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OFFICE OF PETITIONS

In re Application of	:	
GARMIER, William W.	:	
Application No. 10/939,765	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. **30975.26113**	:	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 26, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BROUSE MCDOWELL, LPA** has been revoked by the assignee of the patent application on July 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EMERSON THOMSON & BENNETT, LLC**
777 W. MARKET STREET
AKRON, OH 44303

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OFFICE OF PETITIONS

In re Application of
Edward H. Priepke
Application No. 10/939,777
Filed: September 13, 2004
Attorney Docket No. 16930

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 17, 2006.

The petition is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reason 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 a matter pending before the Office unless such request or such withdrawal is" for one of the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, do not meet any of the conditions set forth in 37 CFR 10.40 because the assignee has not properly intervened in accordance with 37 CFR 3.73(b).

All communications from the Office will continue to be directed to the above address of record until otherwise **properly** notified by applicant/assignee.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

Karen Creasy for

David Bucci
Petitions Examiner
Office of Petitions

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Patent No. : 7,410,725 B2
Serial No. : 10/939,793
Inventor(s) : Meitav et al.
Issued : August 12, 2008
Title : **ELECTROCHEMICAL ENERGY STORAGE DEVICE HAVING IMPROVED ENCLOSURE ARRANGEMENT**
Docket No. : **AVX-113-CON**

Re: Request for Reconsideration

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

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B 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, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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STEPHEN MICHAEL PATTON
P O BOX 381454
GERMANTOWN, TN 38183

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OFFICE OF PETITIONS

In re Application of :
Emiliano Brancolini, et al. :
Application No. 10/939,808 : DECISION ON REQUEST
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 17741 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed January 17, 2006.

The request is **APPROVED**.

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

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

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272- 32204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND, PA 17557

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/29/2010

Applicant	: Clifton A. Alferness	: DECISION ON REQUEST FOR
Patent Number	: 7615000	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/939,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1405** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hercules Incorporated
Hercules Plaza
1313 North Market Street
Wilmington, DE 19894-0001

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Podlas :
Application No. 10/939,815 :
Filed: September 13, 2004 :
Docket No.: 10316 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 24, 2005 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed September 23, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed May 26, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

In re Application of
Andrew D. Bocking, et al.
Application No. 10/939,828
Filed: September 13, 2004
Attorney Docket No. 291010-00063

ON PETITION

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

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before March 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2006. Accordingly, the date of abandonment of this application is March 14, 2007. A Notice of Abandonment was mailed on April 10, 2007. In response, on May 7, 2007, the present petition was filed.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Philip Levy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Levy desires to receive future correspondence regarding this application, then 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 payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) an adequate 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: PHILIP LEVY
ECKERT SEAMANS CHERIN & MELLOTT, LLC
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
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Christopher H. Olson	: DECISION ON REQUEST FOR
Patent Number	: 7570760	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/939,833	09/13/2004	Shigeyuki Kitazawa	KON-1931

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

DATE MAILED: December 1, 2006

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on November 15, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

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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Paper No. 112004

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

JUL 25 2006

In re Application of:
Ronald E. Deluga et al.
Serial No.: 10/939,848
Filed: September 13, 2004
Attorney Docket No.: 200402635-1
Latch for Connecting a Component to a Device

PETITION TO WITHDRAW DRAWING OBJECTION UNDER 37 CFR § 1.181

This is a decision on the petition filed on May 05, 2006, under 37 CFR §1.181, requesting the Director to withdraw the drawing objection in the present application.

Petitioner states, on page 2, that the final action's maintaining of the objection is in error since the drawing fulfilled all the requirements of 37CFR 1.83. Moreover, the drawings were amended to include a spring-loaded mechanism 45, as a labeled rectangular box in Figure 4.

Therefore, no further level of detail regarding the spring loading is needed for proper understanding of the invention. Petitioner also believes that the Examiner's insistence to illustrate how the spring loading is accomplished demands an excessive degree of detail in view of the applicable statute and rules.

The Examiner is correct in the position that the disclosure has failed to show first and second spring loaded pins 41 and 42.

Contrary to Practitioner's position that the drawing Figure 4, as amended, complies with all requirements under 37 C.F.R.§1.83, the spring-loaded pins 41 and 42 are not conventional, nor non-essential features, but are essential to the claimed invention, and therefore must be shown. The addition of element 45 depicting the spring-loaded mechanism does not impart any further clarification of the spring-loaded pin structure.

For the above stated reasons the petition is **DENIED. The objections with respect to the drawings made in the final Office action mailed March 8, 2006 stand.**

Telephone inquires regarding this decision should be directed to Paula Bradley at (571) 272-2800 ext 33.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Mail Date: 04/21/2010

Applicant	: Peter James Magill	: DECISION ON REQUEST FOR
Patent Number	: 7582062	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,851	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

In re Application of :
John J. Talley et al :
Application No. 10/939,852 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. PC031026 :

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

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the issue fee and publication fee a timely manner in reply to the Notice of Allowance mailed June 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 21, 2007.

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

The petition under 37 CFR 1.137(b) filed November 19, 2007 was not signed. This petition can not be revived until the petition is signed.

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

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Philip B. Polster
575 Maryville Centre Drive
Mail Code5S
St. Louis, MO 63141

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHARMACIA CORPORATION
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OFFICE OF PETITIONS

In re Application of :
John J. Talley et al :
Application No. 10/939,852 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. PC031026 :

This is a decision on the renewed petition filed April 16, 2008 under 37 CFR 1.137(b), 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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Chris A. Clark	: DECISION ON REQUEST FOR
Patent Number	: 7607070	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **519** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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OFFICE OF PETITIONS

In re Application of	:	
MacDonald, Stuart G.	:	DECISION ON PETITION
Application No. 10/939,898	:	TO WITHDRAW
Filed: September 13, 2004	:	FROM RECORD
Attorney Docket No. SGM-729	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2005.

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 Howard J. Greenwald on behalf of all attorneys of record who are associated with Customer Number 37282.

All attorneys/agents associated with Customer Number 37282 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.

David Bucci
Petitions Examiner
Office of Petitions

Cc: MICHAEL L. WEINER
BIOMED SOLUTIONS
150 LUCIUS GORDON DRIVE SUITE 215
WEST HENRIETTA, NY 14568

UNITED STATES PATENT AND TRADEMARK OFFICE

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FORMFACTOR, INC.
LEGAL DEPARTMENT
7005 SOUTHFRONT ROAD
LIVERMORE, CA 94551

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APR 1 3 2009

OFFICE OF PETITIONS

In re Application of
Charles A. Miller
Application No.: 10/939,909
Filed: September 13, 2004
Attorney Docket No.: P204-US

ON PETITION

This is a decision on the petition, filed April 10, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 13, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The 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.

[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.*

The application is being referred to Technology Center AU 2829 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WILLIAM T. RALSTON
KIRTON & McCONKIE
1800 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
P.O. BOX 45120
SALT LAKE CITY, UT 84111-1004

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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: MORISHITA et al.
Application No. 10/939,914
Filed: September 8, 2004
For: COMPUTER SYSTEM AND METHOD FOR MIGRATING FROM ONE STORAGE SYSTEM TO ANOTHER

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 04 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 04 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish the independent claims from the references are not in these claims.
-Independent claim 8 fails to specify a "host computer running thereon a management program for switching between logical volumes of source and target storage systems to selectively access one of the logical volumes" (emphasis added).
-Independent claim 10 fails to specify "connecting the storage interface unit in the target storage system with the second input/output port of the storage apparatus to be migrated" (emphasis added), "causing the host computer to access the logical volume on the storage apparatus to be migrated through the connected second input/output port as the logical volume of the target storage system" (emphasis added), and "blocking the first input/output port of the storage apparatus to be migrated, the first input/output port being currently connected to the storage interface unit in the source storage system" (emphasis added).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

DEC 2 7 2005

Technology Center 2100

In re Application of: MORISHITA, et al.
Application No. 10/939,914
Filed: September 8, 2004
For: COMPUTER SYSTEM AND METHOD FOR MIGRATING FROM ONE STORAGE SYSTEM TO ANOTHER

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

This is a response to the renewed petition filed 26 October 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 04 August 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 26 October 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference from the claims, then the statement should simply be made once in the petition. (E.g., "None of the references disclose . . . .")

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

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

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Technology Center 2100

In re Application of:
Shoji KODAMA
Application No. 10/939,917
Filed: September 8, 2004
For: COMPUTING SYSTEM WITH MEMORY MIRRORING AND SNAPSHOT RELIABILITY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 14, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of July 14, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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NEW YORK, NY 10017

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Abe, et al. :
Filed: August 20, 2004 : ON PETITION
Application No. 10/939,918 :
Atty. Dkt. No.: 11134-042-999 :

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.182," filed July 11, 2005 requesting that the above-identified application maintain a filing date of August 20, 2004 and that pages 29-37 be accepted as part of the disclosure of application as originally filed.

The application was filed August 20, 2004. A Notice of Omitted Items in a Nonprovisional Application (Notice) was mailed May 17, 2005 indicating that the application had been accorded a filing date but that pages 29-37 of the specification appeared to have been omitted from the application.

Petitioners herein argue that the application as filed included pages 29-37 of the specification and have included as proof of mailing and proof of receipt of the pages in question a copy of a postcard date stamped by the Office on August 20, 2004. Petitioners have also included a copy of pages 29-37 of the specification.

The original pages 29-37 of the specification submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of August 20, 2004 is GRANTED.

Since the specification cannot be located in the Office, a true and correct copy will be used for examination purposes.

No petition fee is due in connection with this matter. Petitioners may request a refund of the previously submitted $400.00 petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 20, 2004 with pages 29-37 as part of the original disclosure of application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-7195

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OFFICE OF PETITIONS

In re Application of :
Robert Lee Dillenbeck et al :
Application No. 10/939,924 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. 10286.0312.DVUS02 :
BJSC:31 :

This is a decision on the petition, filed October 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

---

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

The examiner of Technology Center AU 3672 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

cc:
HOWREY
1111 LOUISIANA, 25TH FLOOR
HOUSTON, TEXAS 77002-5242

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/939,931	09/13/2004	Jhon Jhy Liaw	2003-1627/24061.206	5464

42717 7590 05/29/2008

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

EXAMINER	
CLARK, JASMINE JHIHAN B	
ART UNIT	PAPER NUMBER
2815	

MAIL DATE	DELIVERY MODE
05/29/2008	PAPER

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

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

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

MAY 29 2008

In re Application of
LIAW ET AL
Application no. 10/939931
Filed: 9/13/2004
Attorney Docket No. 2003-1627/24061.206

:NOTICE OF WITHDRAWAL
: FROM ISSUE
: UNDER 37 C.F.R. § 1.313

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

Telephone inquiries should be directed to Kenneth Parker (571) 272- 2298.

The issue fee is refundable upon written request. If however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard Seidel, Director
Technology Center 2800

CC: Office of Publications:
Patent Clerk, PK3-910
Supervisory Correspondence Clerk, PK3-910

Withdraw of Allowability

1. The indicated allowability of claims 1-18 and 20-35 is withdrawn in view of the same reference Mori et al. (US 6,287,949).

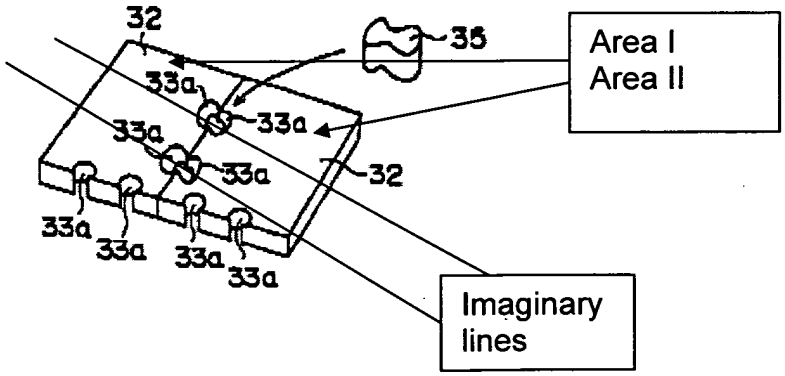
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 8-10,12, 26-29, and 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Mori et al. (US 6,287,949 B1).

FIG. 5A



Mori '949 disclose a semiconductor device, comprising a first layer (in area I) includes a substrate (*for claim 6*); a second layer (in area II) includes a substrate (*for claim 9*), and wherein the first and second layers include interconnect layers (*for claim 8*) ; a connection layer in contact with the first and second layers, wherein the connection layer includes: an opening 33a comprising a narrow area between two wide

areas; and a conductive plug 35 for filling at least partially the opening, wherein an imaginary line (line across the opening drew by the examiner) running parallel to the first layer extends through the narrow area and two wide areas of the opening, wherein the opening can be a depression which does not extend through the semiconductor device (see column 5, lines 37+). To further clarify, a *depression* is defined by the Online dictionary as an area sunk below its surroundings, thus the opening does not extend through the semiconductor device.

Concerning claim 10, wherein the first layer includes an interconnect layer and the second layer includes an active region. To further clarify, the second layer, i.e., is a semiconductor chip, thus the semiconductor chip has and active region.

Concerning claim 12, wherein the connection layer is for current path between two metal layers. To further clarify that on the wall of the opening of the first and second layers, there are conductive /metal layers. Furthermore, the language "for" in the recitation "wherein the connection layer is for high current connection path between two metal layers" is a statement of intended use of the connection layer that does not appear to result in a structural difference between the claimed connection layer and the connection layer of Mori '949. Further, because the connection of Mori '949 appears to have the same structure as the claimed connection layer, it appears to be capable of being used for the intended use, and the statement of intended use does not patentably distinguish the claimed connection from the connection of Mori '949. The manner in which a product operates is not germane to the issue of patentability of the product; Ex parte Wikdahl 10 USPQ 2d 1546, 1548 (PBAI 1989); Ex parte McCullough 7 USPQ 2d

1889, 1891 (PBAI 1988); In re Finsterwalkder 168 USPQ 530 (CCPA 1971); In re Casey 152 USPQ 235, 238 (CCPA 1967). And, claims directed to product must be distinguished from the prior art in terms of structure rather than function. In re Danley, 120 USPQ 528, 531 (CCPA 1959). "Apparatus claims cover what a device is, not what a device does [or is intended to do]. "Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

Concerning claims 26-29, please see the above discussion under claim 12.

Concerning claim 30, Mori '949 discloses a method for connecting layers of a semiconductor device, comprising:

-providing a first layer (see the above discussion) of the semiconductor device;

-providing a second layer of the semiconductor device; and providing a connection layer in contact with the first layer and the second layer, the connection layer includes at least one opening having a conductive plug 35 at least partially filling the opening, wherein the conductive plug is formed in the opening of the semiconductor device, and wherein the opening includes a narrow area between two wide areas , wherein imaginary line running parallel to the first layer extends through the narrow area and wide areas of the opening (please see the above discussion), wherein the opening does not extend through the semiconductor device. (Please see the above discussion with respect to the *depression*).

Concerning claim claims 31-33, wherein the first layer comprises a substrate, and the second layer comprises an interconnect layer, and wherein each of the first layer and the second layer comprises an interconnect layer, please see the above

discussion. Note that the conductive plug 35 is made of metal (Ag paste), thus the first layer (area I) and the second layer (area II) each comprises a metal layer.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5, 7, 11, 13, 14, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 1, 6, 8-10,12, and 30-33 above, and further in view of Lopath et al. (US 6,479,902).

As discussed above, Mori '949 shows the narrow area between two wide areas of the opening, but fails to disclose wherein the width of the narrow area is at least about one sixth of the width of at least one of the two wide areas (claim 2, and claim 35,

i.e.,). It is noted the specification contains no disclosure of either the critical nature of the claimed dimension of any unexpected results arising therefrom.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the width of the narrow area is at least about one sixth of the width of at least one of the two areas, for example, since it has been held that where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicants must show that chosen dimensions are critical. *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Concerning claims 3-5, wherein the width of the narrow area is no greater than about four fifths of the width of at least one of the two wide areas (claim 3), wherein the width of the narrow area arranges between about one sixth to about four fifths of the width of at least one of the two wide areas (claim 4), and wherein the size of the opening is less than about 0.05 um2 (claim 5), please see *In re Woodruff* above.

Concerning claims 7, 11 and 13, Mori '949 teaches that the second layer (or first layer areas I and/or II or 32) are designed to perform various respective function such as a memory chip, ..., or capacitor, etc., (please see column 4, lines 20-40), but fails to teach that the second layer comprises, polysilicon, for example. It would have been obvious to employ the polysilicon with N-type dopant, i.e., for the semiconductor chip, such as transistor, i.e., because the transistor that made of polysilicon is widely used, and also since it has been held to be within the general skill of a worker in the art to

select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first layer (area I) includes an active region and the second layer (area II) includes a gate (claim 11), and/or having the first layer (area I) includes a drain region of a first device and the second layer includes a gate of a second device (claim 13), since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Concerning claims 14 and 34, Mori '949 teaches that the conductive plug 35 is made of silver paste (see column 5, lines 25-38), but fails to teach including copper (Cu), for example. Lopatin '902 teaches that employing copper or silver for plugs. Hence it would have been obvious to employ copper for the reasons as taught by Lopatin '902.

4. Claims 15-18, and 20-25 are allowed.

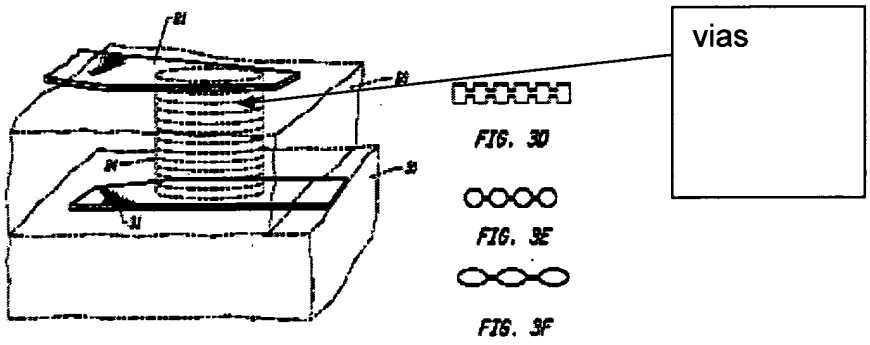
The following is an examiner's statement of reasons for allowance: the applied reference (Mori '949) teaches having a first layer (area I, i.e.,), a connection layer 35 comprises one peanut-shaped structure, wherein the peanut-shaped connection structure includes a narrow area and two wide areas, and wherein an imaginary line running parallel to the first layer extends through the narrow area and two wide areas.

However, the applied reference fails to teach and/or suggest having a second layer (area II), i.e.,) in contact with the connection layer 35 (of area I), wherein at least

two of the one or more peanut-shaped connection structures are adjacent to each other as set forth in claim 15.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A reference of interest is cited: Sen et al. (US 5,304,743) teach connecting between two leads by a conductive via, wherein the via(s) is in a shape of interconnected rectangles or circles.



Telephone Inquiry Contacts

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasmine J. Clark whose telephone number is (571) 272-1726. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker can be reached on (571) 272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC/05/07/08

/Jasmine J Clark/
Primary Examiner, Art Unit 2815

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Alan E. Shluzas	: DECISION ON REQUEST FOR
Patent Number	: 7618444	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Powell Goldstein LLP
One Atlantic Center
1201 West Peachtree Street NW
Fourteenth Floor
Atlanta, GA 30309-3488

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
David I. CHAPNICK, et al. :
Application No. 10/939,949 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 142817.00009-P1236US02 : 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 28, 2005.

The request is **APPROVED**.

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

The request was signed by Jason A. Bernstein on behalf of all attorneys of record who are associated with customer No. 25207.

All attorneys/agents associated with the Customer Number 25207 have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: David I. Chapnick
9282 Broad Street
Boca Raton, FL 33434

cc: Jason Greenstein, Esq.
Quality Life Vitamins, Inc.
1100 W. Commercial Boulevard
Ft. Lauderdale, FL 33309

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/939,949	09/13/2004	David I. Chapnick	142817.00009-P1236US02

CONFIRMATION NO. 4503

25207
POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW
ATLANTA, GA 30309-3488

OC000000019640080

Date Mailed: 07/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2005.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

Mail Date: 04/20/2010

Applicant	: Ziv Hershman	: DECISION ON REQUEST FOR
Patent Number	: 7590880	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/939,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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PATENTMETRIX
14252 CULVER DR. BOX 914
IRVINE, CA 92604

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Allman et al.	:	
Application No. 10/939,986	:	DECISION
Filed: September 13, 2004	:	ON PETITION
Title of Invention:	:	
SELF-CONTAINED MOBILE	:	
INSPECTION SYSTEM AND METHOD	:	

This is a decision on the correspondence filed March 16, 2006, in response to the non-final Office action, mailed August 24, 2005. Applicant asserts that the correspondence was originally filed on November 4, 2005, and appreciates the Office not issuing a Notice of Abandonment in the case. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **dismissed**.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.181". Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 24, 2005. The Office action set a shortened statutory reply period of three (3) months, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 25, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The instant Petition

Applicant files the instant petition and asserts that the correspondence was originally filed on November 4, 2005, and appreciates the Office not issuing a Notice of Abandonment in the case.

Applicable Law, Rules and MPEP

Abandoned status of the application

It is initially noted that an application becomes abandoned for failing to timely file a complete and proper reply to an Office action. 35 U.S.C. § 133 provides that "[u]pon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

The reply period ((six (6) months)) is set by law (statute). The Office has no power to waive the statute.

As such, an application becomes abandoned by operation of law, and is in no way affected by the mailing of a Notice of Abandonment. The Notice of Abandonment is a courtesy provided by this Office, and while we attempt to inform an applicant as to the status of an application, it is applicant's responsibility to keep abreast of the status of his/her application.

Evidence of timely receipt of correspondence

An applicant may demonstrate timely filing of papers with this Office as provided in 37 CFR § 1.8, Certificate of mailing or transmission, which provides:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as

being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR 1.8

Evidence of the contents of a filing

Applicant is advised that evidence of what was filed in this Office may be obtained by an applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO." MPEP § 503.

Analysis

A review of the papers filed on March 16, 2006, (papers which Applicant asserts were filed on November 4, 2005), reveal that they neither include a certificate of mailing or transmission under 37 CFR 1.8, nor a return-receipt postcard date-stamped by this Office. As such, Applicant has failed to demonstrate the timely filing of the correspondence.

Having failed to timely and properly reply to the non-final Office action, the application became abandoned (by operation of law), on December 24, 2005[1].

Conclusion

Applicant has failed to demonstrate that a timely and proper reply to the non-final Office action was filed in this Office. Accordingly, the petition to withdraw the abandonment of the application is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

[1] The Office action set a three month period for reply, and provided for extensions of time under 37 CFR 1.136. Accordingly, Applicant was given three (3) months to reply, and three (3) months of extensions of time were available. Applicant did not request any extensions of time ((prior to the end of the six (6) month period)), as such, the application became abandoned for failing to reply to the Office action within the three-month period set in the Office action.

By FAX: (571) 273-8300
Attn: Office of Petitions

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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14252 CULVER DR. BOX 914
IRVINE CA 92604

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Allman et al.	:	
Application No. 10/939,986	:	
Filing or 371(c) Date: 09/13/2004	:	DECISION ON
Attorney Docket Number: RAP131	:	PETITION

This is a decision in response to the Request for Reconsideration of Petition Under 37 CFR 1.181 (Submitted via Facsimile), filed August 22, 2006. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 24, 2005. The Office action set a shortened statutory reply period of three (3) months, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 25, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The March 16, 2006 Petition

Applicant filed a petition on March 16, 2006, wherein Applicant included what was alleged to be a copy of the correspondence filed November 4, 2005, and Applicant appreciated this Office not mailing a Notice of Abandonment.

The June 23, 2006 Decision dismissing the petition

The petition was dismissed in a Decision mailed June 23, 2006. The Decision dismissing the petition informed Applicant that (1) the application becomes abandoned by operation of law (by failing to file a complete and proper reply within six (6) months, and that the mailing of a Notice of Abandonment is a courtesy provided by this Office; (2) correspondence will be considered timely filed if mailed or transmitted prior to the expiration of the reply period by following the procedures of 37 CFR 1.8, and (3) a postcard receipt properly itemized and stamped by this Office provides prima facie evidence of of receipt in this Office of the items listed thereon.

The present Request for Reconsideration

Applicant files the present Request for Reconsideration and alleges that the March 16, 2006 sibmission "only included the substance of its response to the Patent Office. Applicant is now providing the certificate of transmission form, in compliance with 37 C.F.R. 1.8, originally transmitted with the Office action response, together with the actual response." Applicant attests on a personal knowledge basis that the original response was submitted by mail on November 4, 2005.

Applicable Law, Rules and MPEP

37 CFR 1.8, Certificate of mailing or transmission, states

> (B) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

Analysis

A review of the certificate of facsimile reveals that there is no indication as to where the correcpondence may have been transmitted. The certificate improperly refers to 37 CFR 1.6, and does not include a facsimile number. Also, Applicant asserts in the petition that the correspondence was mailed to this Office. There is no certificate of mailing on the correspondence.

In view of the above, the Office is requiring additional evidence of the timely filing of the correspondence.

The petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail:	Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATENTMETRIX
14252 CULVER DR. BOX 914
IRVINE, CA 92604

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AUG 18 2008

In re Application of :
Bryan Allman, et. al. :
Application No. 10/939,986 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. RAP131 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 30, 2007, to revive the above-identified application.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2882, for appropriate action by the Examiner in the normal course of business on the amendment received by the Office.

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-14-09

TO SPE OF : ART UNIT ~~3753~~ 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/940003 Patent No.: 7059386

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

SPE 3744 Art Unit

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JOSEPH T. REGARD, LTD PLC
P.O. DRAWER 429
MADISONVILLE LA 70447-0429

COPY MAILED
SEP 15 2008

In re Application of :
Mayeaux :
Application No. 10/940,006 : DECISION ON PETITIONS
Filed: 13 September, 2004 :
Attorney Docket No. MAYED04/07 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 27 June, 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 a 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 37 C.F.R. §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.

This application is being forwarded to Technology Center Art Unit 2856 for consideration by the examiner of the claim under 35 U.S.C. §120 of the prior-filed nonprovisional application.

Any questions concerning this matter may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/940,006	09/13/2004	2856	1509	MAYED04/07	49	5

CONFIRMATION NO. 4891

CORRECTED FILING RECEIPT

27988
JOSEPH T. REGARD, LTD PLC
PO DRAWER 429
MADISONVILLE, LA 70447-0429

Date Mailed: 09/15/2008

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)

Donald P. Mayeaux, St. Amant, LA;

Power of Attorney: The patent practitioners associated with Customer Number 27988

Domestic Priority data as claimed by applicant

This application is a CIP of 10/795,673 03/08/2004 PAT 7,004,041
which is a CON of 09/915,192 07/25/2001 PAT 6,701,794
which claims benefit of 60/221,335 07/26/2000
and is a CIP of 09/162,239 09/28/1998 PAT 6,357,304
which is a CIP of 08/701,406 08/22/1996 PAT 5,841,036
This application 10/940,006
is a CIP of 10/631,502 07/31/2003 PAT 7,097,693
which claims benefit of 60/400,736 08/02/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/940,006**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Phase separation system and housing therefore

Preliminary Class

073

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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FITZPATRICK, CELLA, HARPER AND SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112-3801

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MAY 0 2 2008

OFFICE OF PETITIONS

Applicant: Yamamoto, et al.
Appl. No.: 10/940,025
International Filing Date: September 14, 2004
Title: ELECTRON-EMITTING DEVICE, ELECTRON SOURCE USING THE ELECTRON-EMITTING DEVICE, USING THE ELECTRON SOURCE
Attorney Docket No.: 03500.014302.1
Pub. No.: US 2005/0040751/A1
Pub. Date: February 25, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 6, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, by publishing the wrong specification. In that, the specification published is the specification of a copending application.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,276,845 on October 2, 2007, the request is deemed moot.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
Cleveland, OH 44114

Mail Date: 04/27/2010

Applicant	: Ahmad Jalali	: DECISION ON REQUEST FOR
Patent Number	: 7590099	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/940,039	: OF WYETH
Filed	: 09/13/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 21, 2007

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction for Appl. No./10/940045patent no7168533

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Robert A. Siconolfi — **SPE**

3683 — **Art Unit**

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

Mail Date: 04/20/2010

Applicant	: Dumitru M. Ionescu	: DECISION ON REQUEST FOR
Patent Number	: 7599443	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1187** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Ufuk Agar, Miheer Bhachech and :
Gabor Herman : DECISION REFUSING STATUS
Application No. 10/940,076 : UNDER 37 CFR 1.47(a)
Filed: September 13, 2004 :
For: DETERMINING INVERSE TRANSFER FUNCTIONS OF OUTPUT DEVICES HAVING LIMITED BIT DEPTH

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 8, 2005 (Certificate of Mailing Date: March 3, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 13, 2004 without an executed oath or declaration and naming Ufuk Agar, Miheer Bhachech and Gabor Herman as joint inventors.

Accordingly, on November 5, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on March 8, 2005 (Certificate of Mailing Date: March 3, 2005), the instant petition and a two (2) month extension of time were filed.

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

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

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

(3) the petition fee; and

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

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

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

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

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

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

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

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

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

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FORT COLLINS, CO 80527-2400

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Ufuk Agar, Miheer Bhachech and Gabor :
Herman :
Application No. 10/940,076 :
Filed: September 13, 2004 :
For: DETERMINING INVERSE TRANSFER :
FUNCTIONS OF OUTPUT DEVICES :
HAVING LIMITED BIT DEPTH :

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed May 26, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2600 for examination *in due course*.

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

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

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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GABOR HERMAN
61 WEST 62ND STREET, APARTMENT 8E
NEW YORK, NY 10023/7017

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JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of
Ufuk Agar, Miheer Bhachech and Gabor Herman
Application No. 10/940,076
Filed: September 13, 2004
For: DETERMINING INVERSE TRANSFER FUNCTIONS OF OUTPUT DEVICES HAVING LIMITED BIT DEPTH

Dear GABOR HERMAN:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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APR 13 2007

OFFICE OF PETITIONS

In re Application of :
McCreight, et al. :
Application No. 10/940,092 : DECISION ON PETITION
Filed: September 14, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 52831/G468 :

This is a decision on the petition, filed September 29, 2006 (certificate of mailing date September 26, 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 September 13, 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 statement of delay found in the petition is being interpreted as the required statement of delay. Pursuant to petitioner's authorization, the required $750.00 petition fee will be charged to deposit

account no. 03-1728. 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. The application was published on January 11, 2007.

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

This application is being returned to Technology Center Art Unit 2132.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 4, 2008

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No. 10/940101 patent no.7013227

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner — Art Unit 2857

SPE — **Art Unit**

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
David P. Passerell, et al. :
Application No. 10/940,109 : **ON PETITION**
Filed: September 14, 2004 :
Attorney Docket No. 16-613 :

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joshua L. Cohen appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Cohen desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Cohen, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is dismissed as moot.

A review of the record discloses that a Notice of Allowance and Issue Fee Due was mailed on March 9, 2005. The issue fee was received on June 13, 2005. Therefore, this application became abandoned by operation of law for failure to timely pay the issue fee on or before June 9, 2005.

The Request for Continued Examination (RCE) deposited on December 22, 2005, is considered an improper submission under 37 CFR 1.114. The RCE and accompanying Information Disclosure Statement (IDS) will be placed in the file of the above-identified patent without further consideration.

Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unintentional." See 37 CFR

1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An Aunintentional@ petition must be accompanied by the $1,500 petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:
Mail Stop PETITION
Commissioner for Patents
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 the undersigned at (571) 272-3204.

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

cc: JOSHUA L. COHEN
P.O. BOX 980
VALLEY Forge, PA 19482-0980

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 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) : David P. Passerell, et al.
Application No. : 10/940,109
Filed : September 14, 2004

The above-identified application has been assigned Patent No. 6,978,739 and an issue date of December 27, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the Director, Office of Petitions, since the issue fee was not paid on or before June 9, 2005 as required by the Notice of Allowance mailed March 9, 2005.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 27, 2005:

"All reference to Patent No. 6,978,739 to DAVID P. PASSERELL, ET AL. of OHIO for HEAT TRAP appearing in the Official Gazette of December 27, 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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VALLEY FORGE, PA 19482-0980

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
David P. Passerell, et al. :
Application No. 10/940,109 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. BWC-191US :

This is a decision on the petitions filed January 3, 2007 under 37 CFR 1.137(b) to revive the above-identified application and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 9, 2005. The issue fee was paid on June 13, 2005. A Notice of Abandonment was mailed on May 3, 2006. On January 3, 2007, petitioner submitted the present petition to revive under 37 CFR 1.137(b), along with a renewed petition to withdraw from issue under 37 CFR 1.313(c)(2), a request for continued examination (RCE) under 37 CFR 1.114, a preliminary amendment and an Information Disclosure Statement (IDS).

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby 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 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]

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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

The application is being forwarded to Technology Center AU 3749 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Donald W. Meeker
Patent agent
#E
924 East Ocean Front
Newport Beach CA 92661

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Prasoeur Lean et al.	:	DECISION GRANTING
Application No. 10/940,110	:	PETITION UNDER 37 C.F.R.
Filed: September 14, 2004	:	§1.137(b)
Title: EASY 9TM CARD GAME	:	

This is a decision on the petition filed March 8, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 5, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 6, 2006. A notice of abandonment was mailed on January 29, 2007.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has filed the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

The petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :

John A. Hamming :
Application No. 10/940,111 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 036263-000023 : 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 24, 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 no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Mark Spolyar, Esq.**
Spoylar Technology Law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/940,126	09/14/2004	3754	1156	2267.577US03	6	20	4

CONFIRMATION NO. 6262

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

CORRECTED FILING RECEIPT

OC000000017326227

OC000000017326227

Date Mailed: 10/26/2005

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

Applicant(s)

Michael W. Johnson, St. Louis Park, MN;
Jeffrey J. McKenzie, Watertown, MN;

Assignment For Published Patent Application

Entegris, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,443 03/18/2002 PAT 6,789,781
which claims benefit of 60/276,658 03/16/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/940,126

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

REINFORCED DIAPHRAGM VALVE

Preliminary Class

251

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Kobayashi et al. :
Application No. 10/940,135 : DECISION GRANTING
Filed: September 13, 2004 : PETITION
Attorney Docket No. 12062-18 :

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

Petitioner asserted that petitioner deposited the above-identified application with the USPS using "Express Mail Service" on September 13, 2004. The petition is accompanied by a Express Mail Label No. EV32171979US, which indicates a date-in of September 14, 2004. However, in support of petitioner's assertion, petitioner submitted a United States Postal Service Track & Confirm receipt, indicating that a package bearing Express Mail label No. EV32171979US was accepted by the USPS on September 13, 2004, at 8:21 PM, in Chicago, IL 60607. The same Express Mail label number was placed on the original application papers located in the official file.

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

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to September 13, 2004, and to mail a corrected filing receipt.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
william C. Neubauer et al :
Application No. 10/940,138 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. 28363/36886C :

This is a decision on the petition, filed November 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3721 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/940,173	09/14/2004	Jean-Francois Collard	200402534-1	6239

7590 04/17/2008

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

EXAMINER	
PATEL, DHAIRYA A	

ART UNIT	PAPER NUMBER
2151	

NOTIFICATION DATE	DELIVERY MODE
04/17/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/17/2008 DTERRY 10940173
09/16/2004 MBIZUNES 00000034 082025
02 FC:1202 180.00 CR
03 FC:1201 172.00 CR

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Van L. Phillips :
Application No. 10/940,174 :
Filed: September 14, 2004 :
Attorney Docket No. FLEXFT.146CP2C2 :

This is a decision on the petition, filed March 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 6, 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 3738 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-08-08

TO SPE OF : ART UNIT 3738-------

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/940174 Patent No.: 7355456

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

FOR IFW FILES: ~~X~~ JW

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: _____

CMM

SPE 3738 **Art Unit**

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SHELL OIL COMPANY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
Garo Garbis Vaporciyan :
Application No. 10/940,181 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No.: TS1376 (US) :

This is a decision on the petition filed January 30, 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 July 22, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 23, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

It should be noted that the petition fee is set at $1500.00 not $1280.00 as was indicated in the petition and thus, petitioner's deposit account no. 19-1800 has been charged accordingly.

This matter is being referred to Technology Center 1711 for appropriate action on the amendment filed January 30, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/940,195	09/13/2004	Ronald A. Achs	DOMP-1-1004	6438

25315 7590 02/04/2008

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

EXAMINER
WONG, LESLIE A

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
02/04/2008	PAPER

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

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

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/940,195
Filing Date	September 13, 2004
First Named Inventor	Ronald Achs
Art Unit	1761
Examiner Name	N/A
Attorney Docket Number	DOMP-1-1004

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

2-4-08
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

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

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ the attorneys/agents associated with Customer Number 25315

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: Incompatible Relationship with Client.

CORRESPONDENCE ADDRESS

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

☐ The address associated with Customer Number:

OR

☑ Firm *or* Individual Name	Ronald Achs				
Address	180 North Stetson Suite 4525				
City	Chicago	State	IL	Zip	60601
Country	United States				
Telephone		Email	rachs@dominionnutrition.com		
Signature	Lawrence D Graham				
Name	Lawrence D. Graham	Registration No.	40,001		
Date	May 18, 2007	Telephone No.	206.381.3304		

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re Application of :
Peter Zenon Onufryk, et al. :
Application No. 10/940,201 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. PA2784US : 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 13, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Carr & Ferrell, LLP has been revoked by the assignee of the patent application on August 18, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Christopher Novak
Integrated Device Technology, Inc.
6024 Silver Creek Valley Road
Mail Stop: B-165
San Jose, CA 95138

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN 14 2005

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

In re Application of	:
Albert Sattin, et al.	:
Serial No.: 10/940,202	: PETITION TO MAKE SPECIAL
Filed: September 13, 2004	:
Attorney Docket No.: 30429-CIP2	:

This is in response to applicants' petition filed December 30, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

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

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

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

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

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KYOCERA INTERNATIONAL INC.
INTELLECTUAL PROPERY DEPARTMENT
P.O. BOX 928289
SAN DIEGO CA 92192

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Poilasne et al.	:	
Application No. 10/940,206	:	DECISION ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. UP4 00192	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 16, 2009. Accordingly, the date of abandonment of this application is February 17, 2010. A Notice of Abandonment was mailed March 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00 (previously paid February 17, 2010); (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office. It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the

United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: George W. Luckhardt
10300 Campus Point Drive
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 112204

DUANE MORRIS LLP
P.O. BOX 1003
305 NORTH FRONT STREET, 5TH FLOOR
HARRISBURG, PA 17108-1003

FEB - 2 2005

In re Application of:
Che-Yu Li
Serial No.: 10/940,207
Filed: September 14, 2004
Attorney Docket No.: H1823-00008

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 15, 2004 to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petitions include a declaration from the inventor, Chen-Yu Li, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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JUL 19 2006

OFFICE OF PETITIONS

CHRISTOPHER J. WHEWELL
6020 TONKOWA TRAIL
GEORGETOWN TX 78628

In re Application of
Jean E. Whewell et al
Application No. 10/940,208
Filed: September 14, 2004
Attorney Docket No. 091304

DECISION ON PETITION

This is a decision on the Petition entitled "Petition To Accord Special Status under 37 C.F.R. § 1.102)," filed September 20, 2004.

The petition is **Dismissed** as moot.

The petition is dismissed in view of the Request For Refund filed April 27, 2006 and resubmitted on June 19, 2006, which is also being treated as a request to withdraw the petition under 37 C.F.R. § 1.102 filed September 20, 2004.

The petition fee of $130.00 is being credited to Deposit Account No. 50-0818 as requested.

This application is being referred to Technology Center AU 3625 for examination in due course.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

JUN 04 2007

In re Application of:
BALLET, JOSEPH et al
Serial No. 10/940,218
Filed: Sep. 13, 2004
Docket: 03-735
Title:
REFRIGERANT ACCUMULATOR

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Mar. 9, 2007 under 37 CFR 1.181 requesting supervisory review of the final office action mailed Feb. 12, 2007.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Joseph Ballet	: DECISION ON REQUEST FOR
Patent Number	: 7571622	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

FLOYD E. IVEY
IVEY Law Offices, P.S. Corp.
7233 W. Deschutes Ave., Suite C
Box #3
Kennewick, WA 99336

In re Application of	:	
Jody Norton	:	
Application No. 10/940,219	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. 54357.0001US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2009.

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

A review of the file record indicates that the power of attorney to Floyd E. Ivey has been revoked by the applicant of the patent application on September 29, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MERCHANT & GOULD PC**
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
3800 HOWARD HUGHES PKWY,
SUITE 850
LAS VEGAS, NV 89169

In re Application of
Gary Miller
Application No. 10/940,227
Filed: September 13, 2004
Attorney Docket No. MILLERG04-03

ON PETITION

This is a decision in response to the petition, filed June 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed May 5, 2005. A Notice of Abandonment was mailed on November 14, 2005. In response, on June 15, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2125 for consideration of the amendment filed June 29, 2006.

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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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Bock :
Application No. 10/940,229 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. 0100334-0501796 :
For: METHOD AND SYSTEM FOR DETERMINING POSITIONS ON A DOCUMENT

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

This application became abandoned for failure to timely submit a reply to the February 6, 2006 Notice of Drawing Inconsistency with Specification, which set a no-extendable one month or thirty day period, whichever was longer, for reply. No reply being received, the application became abandoned on March 7, 2006. A Notice of Abandonment was mailed on April 18, 2006.

Applicant has submitted a proper reply in the form of an amendment to the specification, an acceptable statement of the unintentional nature of the delay in responding to the February 6, 2006 Notice of Drawing Inconsistency with Specification 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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of :
Lou, et al. : DECISION ON PETITION
Application No. 10/940,237 :
Filed: September 14, 2004 :
Atty. Dkt. No.: 6755USD7 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 5, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned November 1, 2006 for failure to timely submit a proper reply to the non-final Office action mailed July 31, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed March 22, 2007.

Petitioners argue that a proper response, including petition for extension of time, to the non-final Office action was timely submitted January 17, 2007.

Review of Office records reveals that the response, including petition for extension of time, was received at the USPTO on January 22, 2007 (certificate of mailing date of January 17, 2007), while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 10/940,327. As a result of applicants' error, the application was held abandoned.

Moreover, the instant petition also references the incorrect application serial number.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-

referenced application, applicants failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicants' error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office. Moreover, if appropriate, applicants' records should be corrected to avoid further submission errors as future errors of this nature may not be deemed "minor" within the meaning of MPEP 502.

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

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

This application is being forwarded to Technology Center 1600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PATENTS

IN THE UNITED STATES PATENT AND TRADMARK OFFICE

Applicants: Sheng C. Lou, et al.

Serial No.: 10/940,327

Filed: September 14, 2004

Title: MONOCLONAL ANTIBODIES TO HUMAN IMMUNODEFICIENCY VIRUS AND USES THEREOF

Attorney Docket No.: 6755USD7

Group Art Unit: 1648

Examiner: Jeffrey S. Parkin
Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Filing under 37 CFR §1.8(a):
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being filed with the Patent Office on the date shown below by facsimile to:

Central Fax Number 571-273-8300

Date of Deposit: June 5, 2007

Audrey L. Bartnicki

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Dear Sir or Madam:

Applicants hereby request reversal of the holding of abandonment of the above-identified application. This Petition and supporting documents are being promptly submitted after Applicant has learned of the application's abandonment and had access to the appropriate documents in order to reply.

Facts Supporting a Reversal of Holding of Abandonment

Applicants' understanding of events is as follows:

1. The subject application became abandoned per the attached Notice of Abandonment mailed March 22, 2007.

2. The Notice of Abandonment recites a purported failure of applicants to respond to the Office letter mailed July 31, 2006.

3. However, Applicants' response was timely filed within the six-month statutory deadline on January 17, 2007.

4. Attached are complete copies of the submission of a Response to Office Action and Information Disclosure Statement to the Patent Office on January 17, 2007.

5. Further attached is a copy of the stamped postcard indicating receipt by the Patent Office of the documents recited in paragraph 4 on January 22, 2007.

PAGE 4/18 * RCVD AT 6/5/2007 9:15:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/10 * DNIS:2738300 * CSID: * DURATION (mm-ss):04-30

6. Additionally, the signed Certificate of Mailing on each of the documents recited in paragraph 4 recites a submission date of January 17, 2007. If necessary or desired, a statement attesting to the previous timely filing can be made, and is not included herewith merely to file this Petition without further delay.

7. The Notice of Abandonment received from the Patent Office was docketed internally on March 28, 2007 (indicated by the date next to "docketed by"), and was received by the Applicants' undersigned counsel on April 18, 2007 (indicated by the handwritten notation "received by ALB 4/18/07").

8. A response to a holding of abandonment is done as soon as possible, and generally within about 1-2 months of receiving knowledge of the holding. In this case, however, there was a delay in transmittal of the communication of the holding to the undersigned attorney handling the response due to an inability to locate the application file. There also was a delay in the undersigned's filing of this response caused in large part due to this particular file, as well as a large volume of other files, being removed from the access of the attorney because of the files being scanned by an outside vendor as electronic documents for permanent file retention.

Request for Treatment of the Subject Petition as Being Timely Filed

9. Pursuant to paragraphs 7 and 8 above, Applicants' undersigned counsel submits that the subject Petition, as well as the underlying Response to Office Action, was filed without intentional delay.

10. Applicants hereby request the Commissioner of Patents and Trademarks to treat this subject Petition under 37 CFR 1.181(a) as being timely filed, even though not filed within 2 months of the mail date of the notice of abandonment for the reasons stated in paragraphs 7 and 8 above.

Based on the foregoing, Applicants hereby petition the Commissioner for Patents to withdraw the holding of abandonment under 37 CFR 1.181(a) and revive the subject application. Applicants request that no fee be charged for this request as, pursuant to paragraphs 7 and 8 above, this Petition, as well as the underlying Response to Office Action, was timely filed, even though not filed within 2 months of the mail date of the notice of abandonment.

Alternative Petition(s) in the Event of Unavoidable or Unintentional Abandonment

11. If the reasons identified in paragraphs 7-10 are found in anyway to be insufficient, rather than dismiss this Petition, Applicants request that the Petition be granted under 37 CFR 1.137(a), and that the evidence in paragraphs 1-6 and 7-10 be applied as a showing under 37 CFR 1.137(a) that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

12. If the reasons identified in paragraphs 7-11 are found in anyway to be insufficient, rather than dismiss this Petition, Applicants request that the Petition be granted under 37 CFR 1.137(b), and that the evidence in paragraphs 1-6 and 7-10 be applied as a showing under 37

PAGE 5/18 * RCVD AT 6/5/2007 9:15:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/10 * DNIS:2738300 * CSID: * DURATION (mm-ss):04-30

CFR 1.137(b) that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unintentional.

CONCLUSION

Based on the foregoing, Applicants hereby petition the Commissioner of Patents and Trademarks to revive and/or reinstate the application referenced above.

Respectfully submitted,
Lou et al.

ABBOTT LABORATORIES
Customer Number 23492
Telephone: (847) 938-3440
Facsimile: (847) 938-7827

Audrey L. Bartnicki
Registration No. 40,499
Attorney for Applicants

PAGE 6/18 * RCVD AT 6/5/2007 9:15:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/10 * DNIS:2738300 * CSID: * DURATION (mm-ss):04-30

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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.
10/940,237	09/14/2004	Sheng C. Lou	6755USD7	7146

23492 7590 03/22/2007

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

MAR 27 2007
PATENT DEPARTMENT

EXAMINER	
PARKIN, JEFFREY S	
ART UNIT	PAPER NUMBER
1648	
MAIL DATE	DELIVERY MODE
03/22/2007	PAPER

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

Petition to Revive Record by ALB 4/18/07

DUE DATE 4.22.07

DEADLINE DATE 4.22.07

DOCKETED BY KMW (3.28.07)

ATTY OK _____

CANCEL (ATTY INITIALS) _____

CANCELED BY _____

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Notice of Abandonment	Application No.	Applicant(s)	
	10/940,237	LOU ET AL.	
	Examiner	Art Unit	
	Jeffrey S. Parkin, Ph.D.	1648	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *31 July 2006*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Jeffrey S. Parkin, Ph.D.
Primary Examiner
Art Unit: 1648

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PAGE 8/18 * RCVD AT 6/5/2007 9:15:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/10 * DNIS:2738300 * CSID: * DURATION (mm-ss):04-30

Abbott Laboratories
Patents and Trademarks
D377, AP6A-1
100 Abbott Park Road
Abbott Park, IL 60064-6008

6755.US.D7 ALB/sbd/ADD January 17, 2007

Patent Office Mail Room: Will you please affix the Patent Office Stamp and Serial Number and return this card to acknowledge receipt of the following documents:

Applicants: Sheng C. Lou, et al.
Serial No.: 10/940,237
Filing Date: September 14, 2004
Title: MONOCLONAL ANTIBODIES TO HUMAN IMMUNODEFICIENCY VIRUS AND USES THEREOF

1. Transmittal Letter (1 page) in duplicate
2. Response to Office Action (4 pages)
3. Information Disclosure Statement (2 pages)
4. PTO Form-1449 (1 page) in duplicate
5. Copy of One Reference
6. Return Receipt Postcard

All mailed to the Patent and Trademark Office by First Class Mail on January 17, 2007.

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DATE: January 1, 2007 SHEET 1 of 1

Form PTO - 1449 (Modified)

FORM PTO-1449 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY. DOCKET NO.	SERIAL NO.
	6755.US.D7	10/940,237
INFORMATION DISCLOSURE STATEMENT BY APPLICANT	APPLICANT(S)	
	Sheng C. Lou, et al.	
(Use several sheets if necessary)	FILING DATE	GROUP
(37 CFR 1.98 (b))	September 14, 2004	1648

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		PATENT NUMBER	ISSUE DATE	INVENTOR	CLASS	SUB CLASS	FILING DATE
	A9	6,593,079 B1	07/15/2003	Donie, et al.			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

		DOCUMENT NUMBER	PUBLIC-ATION DATE	COUNTRY OR PATENT OFFICE	CLASS	SUB CLASS	TRANS-LATION YES	TRANS-LATION NO

OTHER DOCUMENTS (Including Author, Title, Date, Place of Publication)

EXAMINER	DATE CONSIDERED

EXAMINER: Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

(Form PTO 1449)

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6755.US.D7 ALB/sbd/ADD January 17, 2007

Patent Office Mail Room: Will you please affix the Patent Office Stamp and Serial Number and return this card to acknowledge receipt of the following documents:

Applicants: Sheng C. Lou, et al.
Serial No.: 10/940,237
Filing Date: September 14, 2004
Title: MONOCLONAL ANTIBODIES TO HUMAN IMMUNODEFICIENCY VIRUS AND USES THEREOF

1. Transmittal Letter (1page) in duplicate
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3. Information Disclosure Statement (2 pages)
4. PTO Form-1449 (1 page) in duplicate
5. Copy of One Reference
6. Return Receipt Postcard

All mailed to the Patent and Trademark Office by First Class Mail on January 17, 2007.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Sheng C. Lou, et al.

Serial No.: 10/940,237

Filed: September 14, 2004

For: MOMOCLONAL ANTIBODIES TO HUMAN IMMUNODEFICIENCY VIRUS AND USES THEROF

Examiner: Jeffrey S. Parkin

Group Art Unit: 1648

Attorney Docket No.: 6755USD7

Certificate of Mailing under 37 CFR §1.8(a): I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail addressed to:

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

Date of Deposit: January 17, 2007

Sherell Brownlee-Davis 1/17/07

Sherell Brownlee-Davis

INFORMATION DISCLOSURE STATEMENT

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

Dear Sir:

The following information is submitted pursuant to 37 C.F.R. §§1.97 and 1.98 in accordance with Applicants' duty of disclosure under 37 C.F.R. §1.56. This submission is not an admission that the documents cited herein are prior art as to the invention claimed. In accordance with 37 CFR §§1.97(g)-(h), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that other material information as defined by 37 CFR §1.56(a) exists.

Applicants submit herewith Form PTO 1449 listing the references known to Applicants. Applicants respectfully request that the Examiner (1) initial each reference listed on the enclosed Form PTO 1449 indicating that the Examiner has considered and made those references of record in this application and (2) return a copy of the initialed Form PTO 1449 to Applicants. Pursuant to 37 CFR 1.98(2), copies of U.S. patents and U.S. patent application publications are not provided. However, copies of all non-U.S. patent and U.S. patent application/publication references are enclosed.

06/07/2007 NNGUYEN1 00000008 010025 10940237
01 FC:1806 180.00 DA

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JUN 05 2007

This Information Disclosure Statement is submitted after the first Office Action on the merits, but before the issuance of a final action or a notice of allowance. The Commissioner is hereby authorized to charge $200 and any additional Filing Fees required under 37 CFR 1.16, as well as any patent application processing fees under 37 CFR 1.17 associated with this communication for which full payment has not been tendered to Deposit Account No. 01-0025.

Respectfully submitted,
Sheng C. Lou, *et al.*

ABBOTT LABORATORIES
Customer No. 23492
Abbott Park, IL 60064-6008
Telephone: (847) 938-3440
Facsimile: (847) 938-2623

Audrey L. Bartnick
Registration No. 40,499
Attorney for Applicant(s)

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD: TX32/PL02
AUSTIN, TX 78729

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Itay Peled et al	:	
Application No. 10/940,252	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. SC13283EI	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed November 14, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 15, 2007.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of Mruz :
Application No. 10/940,266 : Decision on Petition
Filing Date: September 14, 2004 :
Attorney Docket No. 13930 B :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **granted**.

The 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 August 30, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on November 30, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted the issue fee and publication fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Ernest R. Whitehead
#460
640 Bailey Road
Pittsburg CA 94565

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
Ernest Rodolpho Whitehead :
Application No. 10/940,271 : DECISION ON PETITION
Filed: September 14, 2004 : UNDER 37 C.F.R. §1.181(A)
Title: HANDS FREE BREAST PUMP :
BRA :

This is a decision on the submission of December 22, 2005, which is properly treated as a petition under 37 C.F.R. §1.181(a), to withdraw the holding of abandonment.

The Office regrets the period of delay in issuing this decision.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 7, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 8, 2005. A notice of abandonment was mailed on November 2, 2005.

With the present petition, Petitioner has alleged that a response was submitted on August 2, 2005. Petitioner has included a copy of this response.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that he submitted a response to the non-final Office action on August 2, 2005.

First, as stated above, a response was due no later than July 7, 2005. The copy of the response which was purportedly submitted on August 2, 2005 has been reviewed, and it does not appear to contain a petition for a one-month extension of time. As such, the response was not timely submitted.

Secondly, certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner's submission has been reviewed, and it does not appear to contain a certificate of facsimile transmission. As such, it does not appear that Petitioner can comply with 37 C.F.R. §1.8(b)(2).

Pursuant to the discussion above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

CONCLUSION

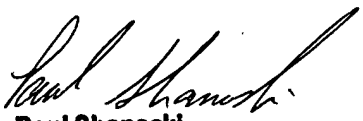
Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent 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].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. 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 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. None

Ernest R. Whitehead
#460
640 Bailey Road
Pittsburg CA 94565

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Ernest Rodolpho Whitehead et al. :
Application No. 10/940,271 : DECISION ON PETITION
Filed: September 14, 2004 : UNDER 37 C.F.R. §1.137(B)
Title: HANDS FREE BREAST PUMP BRA :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on January 25, 2007 (a duplicate was received on January 30, 2007).

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 7, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

on July 8, 2005. A notice of abandonment was mailed on November 2, 2005.

A petition pursuant to 37 C.F.R. §1.181(a) was filed on December 22, 2005, and this petition was dismissed via the mailing of a decision on December 11, 2006.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required. What appears to be a substitute specification and an amendment to the claims was received on December 22, 2005, with the petition pursuant to 37 C.F.R. §1.181(a).

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the substitute specification and the amendment to the claims can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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GARY L. BUSH
ANDREWS KURTH LLP
SUITE 4200
600 TRAVIS
HOUSTON, TX 77002

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JAN 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Gibbs, et al. :
Application No. 10/940,273 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. LUF021/147669 :

This is a decision on the papers styled, "Petition For Date Of This Submission As Indicated As Omitted On 'Notice Of Omitted Items' As Application Filing Date," filed January 5, 2005, which has been treated as a petition requesting that the above-identified application be accorded a filing date of January 5, 2005.

The petition is **granted**.

The above-identified application was submitted on September 14, 2004. However, on November 24, 2004, a "Notice Of Omitted Items in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date, and that Page 31 of the specification appears to have been omitted.

In response, on January 5, 2005, page 31 of the specification, a supplemental declaration referring to page 31 of the specification and the present petition were filed.

Petitioner has provided a copy of page 31 of the specification and requested the January 5, 2005 filing date on petition. Additionally, the supplemental declaration states, "We hereby declare that the subject matter of the attached specification Page 31 filed herewith was part of the invention before the filing date of the original application (September 14, 2004), above identified for such invention."

In view of the above, the application will be processed with a filing date of January 5, 2005, and will include Page 31 of the specification, filed on that date.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of January 5, 2005.

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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75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Dianna L. **CLEVELAND** :
Application No. 10/940,322 : DECISION ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. DCLEV-001C2 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 6, 2007, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained on December 20, 2008. Accordingly, the above-identified application became abandoned on January 7, 2008.

The petition satisfies the requirements for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $405 filing fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 6, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on January 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Lori Baker Amerson at (571)272-6051.

This application is being referred to Technology Center AU2628 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petitions

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James G. O'Boyle
711 Chevy Chase Building
5530 Wisconsin Avenue
Chevy Chase, MD 20815

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Victoria J. Bingham :
Application No. 10/940,381 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue and publication fees; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue and publication fees, which were submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD MI 48381

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MAY 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Stevens et al.	:	
Application No. 10/940,395	:	DECISION ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No. 5702-01095	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of November 25, 2009 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 26, 2010. *See* MPEP 1214.06. A Notice of Abandonment was mailed February 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation-in-part application, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/661,671, filed March 22, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

DATE: 7/19/07 APPLICATION NUMBER: 10/940,400

DOC CODE: Pet Dec DOC DATE: 7/20/07

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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6201 SOUTH FREEWAY
FORT WORTH TX 76134

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of :
Ramon C. Dimalanta et al. :
Application No. 10/940,400 : ON PETITION
Filed: September 14, 2004 :
Attorney's Docket No. **2703** :

This is a decision on the petition filed July 11, 2007 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 November 16, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned February 20, 2007. Accordingly, the Notice of Abandonment was mailed July 6, 2007.

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);

---

[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)).

(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.

At the outset, petitioner files the instant petition under 37 CFR 1.137(b) but argues non-receipt as the office action was returned by the United States Postal Service (USPS). A review of the file reveals that in fact the office action was returned by the USPS but a review of the file also reveals that there appears to be a discrepancy with the address which may account for why the office action was returned. The address of record is ALCON IP LEGAL, TB4-8 **6201** SOUTH FREEWAY FORT WORTH TX 76134 which is different from the address used in the petition, ALCON IP LEGAL, TB4-8 **201** SOUTH FREEWAY FORT WORTH TX 76134. Nonetheless, the petition does not satisfy requirement (1) above.

Although the petition to revive fee in the amount of $1500 has been paid and the entire delay statement is provided, the petition to revive therefore is not accompanied by a proper response to the non-Final Office Action as required by 37 CFR 1.137(b)(1). Petitioner must submit a proper reply to the Office action mailed on November 16, 2006, with any renewed petition. The petition filed by itself is not a response. **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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of
Ramon C. Dimalanta et al.
Application No. 10/940,400
Filed: September 14, 2004
Attorney's Docket No. **2703**

ON PETITION

This is a decision on the renewed petition filed July 25, 2007 under 37 CFR 1.137(b) [1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 16, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned February 20, 2007. Accordingly, the Notice of Abandonment was mailed July 6, 2007. A petition filed July 11, 2007 was dismissed in a decision mailed July 20, 2007 because the required response was not filed with the petition.

Comes now petitioner with the response to the November 16, 2006 non-Final Office Action.

This matter is being referred to Technology Center 3763 for appropriate action on the response filed July 25, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: Ming Benjamin Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7631144	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **275** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Jens MUECKENHEIM, et al. :
Application No. 10/940,421 : DECISION GRANTING PETITION
Filed: September 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2100.012600 MUEKENHEIM 26** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 21, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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SHEEHAN PHINNEY BASS & GREEN, PA
c/o PETER NIEVES
1000 ELM STREET
MANCHESTER, NH 03105-3701

Mail Date: 04/21/2010

Applicant	: Richard C. Montesanti	: DECISION ON REQUEST FOR
Patent Number	: 7574947	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
Audrey A. SHERMAN, et *al.* :
Application No. 10/940,442 : DECISION ON PETITION
Filed: September 14, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **59815US002** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 10, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1794 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.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

SPECIAL PROCESSING SUBMISSION

32692 Customer Number	**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)**	Case No.: 59815US002
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX: 571-273-8300	First Named Inventor: Sherman, Audrey A	
	Application No: 10/940442	Filed: 14-SEP-2004
	Title: Optical Film	
	Confirmation No.: 6604	

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office Notice or Action plus any extensions of time actually obtained. APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

(1) ☒ Any required fee under 37 CFR § 1.17(m) will be paid at the time of EFS-Web submission. In the event fees are not or cannot be paid at the time of EFS-Web submission, please charge any fees under 37 CFR § 1.17 which may be required to Deposit Account No. 13-3723.

☐ Please charge the fee provided in 37 CFR § 1.17(m) to Deposit Account No. 13-3723.

☒ Please charge any additional fees associated with the prosecution of this application to Deposit Account No. 13-3723. This authorization includes the fee for any necessary extension of time under 37 CFR § 1.136(a). To the extent any such extension should become necessary, it is hereby requested.

☒ Please credit any overpayment to the same deposit account.

(2) Reply

A. The reply to the Office Action dated December 9, 2008 in the form of RCE Amendment and Response (identify type of reply):☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of $_____:

☐ has been paid previously on _____. Copies of the Issue Fee Transmittal form and postcard receipt are enclosed.

(3) Terminal disclaimer with disclaimer fee

☑ Since this utility application was filed on or after June 8, 1995, no Terminal disclaimer is required.

☐ A Terminal Disclaimer (and disclaimer fee) disclaiming the required period of time is enclosed.

(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))].

April 30, 2010
Date

By: /Jeffrey M. Olofson/
Jeffrey M. Olofson, Reg. No.: 45,701
Attorney/Agent of Record
Telephone No.: 651-736-7906

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833

Enclosures:
- ☐ One copy of this sheet marked duplicate is also enclosed.
- ☐ Reply
- ☐ Terminal disclaimer
- ☐ 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: 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 571-273-0025.
- ☒ transmitted to United States Patent and Trademark Office on the date shown below via the Office electronic filing system.

April 30, 2010 /KimElfstrom/
Date Signed by: Kim Elfstrom

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10940442 Total Records Found: 18

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/30/2010	00014954	4	1801	$810.00	04/30/2010	DA 133723
04/30/2010	00014952	4	1453	$1,620.00	04/30/2010	DA 133723
04/30/2010	00014953	4	1253	$1,110.00	04/30/2010	DA 133723
09/29/2008	00001062	4	1806	$180.00	09/26/2008	DA 133723
03/07/2008	00010795	4	1801	$810.00	03/07/2008	CC
11/16/2007	00000001	1	1251	$120.00	11/05/2007	DA 133723
06/21/2007	00009586	4	1806	$180.00	06/21/2007	CC
06/21/2007	00009585	4	1251	$120.00	06/21/2007	CC
01/17/2007	00003703	4	1251	$120.00	01/17/2007	CC
01/17/2007	00003704	4	1801	$790.00	01/17/2007	CC
07/06/2006	00000765	4	1202	$450.00	07/05/2006	DA 500413
06/30/2005	00000110		8007	$20.00	06/29/2005	DA 133723
01/07/2005	00000145		8021	$40.00	01/04/2005	DA 133723
01/07/2005	00000138		8021	$40.00	01/04/2005	DA 133723
01/06/2005	00000135	1	1251	$120.00	01/04/2005	DA 133723
01/06/2005	00000134	1	1051	$130.00	01/04/2005	DA 133723
09/16/2004	00000023	1	1202	$198.00	09/14/2004	DA 133723
09/16/2004	00000022	1	1001	$770.00	09/14/2004	DA 133723

Correspondence Address for 10/940442

Customer Number	Contact Information	Address
32692 Delivery Mode: Electronic	Telephone: (651)733-1500 Fax: (651)736-3833 E-Mail: LegalUSDocketing@mmm.com	3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL MN 55133-3427

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Craig A. Hobbs	: DECISION ON REQUEST FOR
Patent Number	: 7612776	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Patrick Hofer-Noser	: DECISION ON REQUEST FOR
Patent Number	: 7637308	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **950** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 8

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE KY 40202-3352

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OFFICE OF PETITIONS

In re Application of	:	
Janusz, Payne, Prell, and Pol	:	
Application No. 09/875,529	:	DECISION GRANTING
Filed: June 6, 2001	:	PETITION UNDER
For: METHOD AND SYSTEM FOR	:	37 CFR 1.47(a)
TRANSMITTING, RECEIVING AND	:	
COLLECTING INFORMATION RELATED	:	
TO A PLURALITY OF WORKING	:	
COMPONENTS	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 23, 2002. The application file was recently forwarded to the Office of Petitions for a decision on the petition. The Office apologizes for any inconvenience.

The petition is granted.

Petitioner has shown that Gerald E. Janusz, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of David W. Nagle, Jr. establishes that the inventor, via his attorney, was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at his attorney's address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Gerald E. Janusz
c/o Joseph H. Blandford, Jr.
P.O. Box 70302
Louisville KY 40270-0302

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JAN 03 2003

OFFICE OF PETITIONS

In re Application of :
Janusz, Payne, Prell, and Pol :
Application No. 09/875,529 :
Filed: June 6, 2001 : LETTER
For: METHOD AND SYSTEM FOR :
TRANSMITTING, RECEIVING AND :
COLLECTING INFORMATION RELATED :
TO A PLURALITY OF WORKING :
COMPONENTS :

Dear Mr. Janusz:

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 Petitions Attorney Christina Tartera Donnell at (703) 306-5589. 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).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

STITES & HARBISON, PLLC
400 W MARKET ST
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LOUISVILLE KY 40202-3352

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: A.K.M. Kamrul Alam	: DECISION ON REQUEST FOR
Patent Number	: 7603459	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

OFFICE

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

JUN 18 2008

In re Application of :
SCOCA, ANTHONY L. et al. :
Application No. 10/940,477 : **DECISION ON PETITION**
Filed: September 14, 2004 :
Attorney Docket No. L250.114.101/FE-00729 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on October 15, 2007.

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 June 16, 2007. The Notice of Abandonment, mailed on September 13, 2007 indicates, "The submitted fee of $89 is insufficient. A balance of $1700 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on August 16, 2007 authorizing that the Issue Fee be charged to Deposit Account No. 501464. On August 16, 2007 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

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United States Patent and Trademark Office
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MINNEAPOLIS. MN 55402

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In re Application of	:	
Scoca et al.	:	
Application No. 10/940,477	:	DECISION ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. L250.114.101/FE-00729	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008 , to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 16, 2007, as required by the Notice of Allowance and Fee(s) Due mailed May 16, 2007. Accordingly, the application became abandoned on August 17, 2007. A Notice of Abandonment was mailed September 13, 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 $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay.

Petitioner should note that the issue fee of $1,440, the publication fee of $300 and the advance copies of patent fee of $6, submitted on July 1, 2008, were previously paid and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to Petitions Examiner, Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED
DEC 23 2008

In re Patent No. 7,413,860 :
Nezu et al. :
Issue Date: August 19, 2008 :
Application No. 10/940,500 : LETTER REGARDING
Filed: September 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 14875-073002 :

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed July 14, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the patent term adjustment of one hundred thirty (130) days indicated on the Notice of Allowance appears to be longer than appropriate.

The request for review of the patent term adjustment is **GRANTED**.

Prior to a decision being made on this letter, the above-identified application matured into a patent with a revised patent term adjustment of 236 days. 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 fifty-three **(253)** days.

On April 15, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 130 days. Applicants disclose that no delay was calculated for the response filed September 26, 2006. In addition, applicants note that the date for the response filed April 17, 2007 was incorrectly entered as April 10, 2007. Consequently, the Office erred in entering a period of reduction as a supplemental response for the IDS filed with the response on April 17, 2007.

A review of the record confirms that in response to the Office action mailed May 30, 2006, applicants did not file an RCE until September 26, 2006, three months and 27 days later. As such, a period of reduction of 27 days should have been entered pursuant to 37 C.F.R. §1.704(b).

In addition, applicants are correct that the IDS was filed with the response on April 17, 2007. Accordingly, the period of reduction of 7 days is being removed.

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is one hundred ten (110) days.

After the mailing of the notice of allowance, the patent term adjustment was increased by 143 days for Office delay in issuance of the patent and decreased by a period of 37 days for the filing of this candor letter. As stated in 37 CFR 1.704(e):

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Pursuant to §1.704(e), no period of reduction is warranted for the filing of this candor letter. The period of reduction of 37 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred fifty-three (253) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred fifty-three **(253)** 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 : 7,413,860 B2

DATED : **Aug. 19, 2008** **DRAFT**

INVENTOR(S) : Nezu 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 236 days

Delete the phrase "by 236 days" and insert – by 253 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090922

DATE : September 22, 2009

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7413860

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: /Andrew Wang/ **Art Unit** 1656

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY -6 2005

In re Application of	:	
John P. LeBel et al.	:	
Serial No. 10/940,512	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO MAKE SPECIAL
For: SPOON WITH EXTENDABLE STRAW	:	

Applicant's petition, filed September 13, 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, Director
Technology Center 3700

Gerald R. Prettyman
P.O. Box 1419
Pleasanton, CA 94566-0419

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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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Patent No. 7,138,680
Application No. 10/940,513
Filed: September 14, 2004
Issued: November 21, 2006
Attorney Docket No.
2004P53107US/I331.155.101

ON PETITION

This is a decision on the petition filed August 19, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Hong-Jyh Li, et al.	Examiner:	Trung Q. Dang
Patent No:	7,138,680 B2	Group Art Unit:	2823
Serial No.:	10/940,513	Docket No.:	I331.155.101/2004P53107US
Issued:	November 21, 2006		
Title:	MEMORY DEVICE WITH FLOATING GATE STACK		

PETITION UNDER 37 C.F.R. § 3.81(b) – REQUEST TO ADD ASSIGNEE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Applicants hereby request to change the Assignee for the above-identified patent to "Infineon Technologies AG" and "Advanced Micro Devices Inc.". The Assignments were recorded on September 14, 2004 as Reel 015801, Frame 0180 (Assignee: Advanced Micro Devices Inc., Exhibit A) and April 12, 2005 as Reel 015890, Frame 0035 (Assignee: Infineon Technologies AG, Exhibit B).

The Commissioner is hereby authorized to charge the amount of $130.00 (to cover the Petition filing fee under 37 C.F.R. §3.81(b) to Deposit Account No. 50-0471. However, if additional fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

Respectfully submitted,

Hong-Jyh Li, et al.,
By their attorneys,
DICKE, BILLIG & CZAJA, PLLC
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis, MN 55402
Telephone: (612) 573-2002
Facsimile: (612) 573-2005

Dated: August 19, 2009
SED:kmh

/Steven E. Dicke/
Steven E. Dicke
Reg. No. 38,431

Adjustment date: 10/06/2009 CKHLOK
08/20/2009 INTEFSW 00002676 500471 10940513
01 FC:1464 130.00 CK
Adjustment date: 10/06/2009 CKHLOK
08/20/2009 INTEFSW 00001702 500471 10940513
01 FC:1811 100.00 CR
10/06/2009 CKHLOK 00000007 500471 7138680
01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

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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OFFICE OF PETITIONS

Valeo Climate Control Corp.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

In re Application of :
PERRY, et al. :
Application No. 10/940,524 : DECISION ON PETITION
Filed: September 5, 2006 : TO WITHDRAW
Attorney Docket No. TUS0148-DIV : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
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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BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND, IN 46601

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OFFICE OF PETITIONS

In re Application of :
Ross Weldy :
Application No. 10/940,561 : DECISION GRANTING PETITION
Filed: September 13, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1065-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 4, 2004, which required the submission of an executed oath or declaration, a $65 late surcharge fee, and replacement drawings. 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 January 5, 2005. A Notice of Abandonment was mailed on July 13, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of November 4, 2004, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of November 4, 2004 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 the Office of Initial Patent Examination for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Black Lowe & Graham, PLLC
701 Fifth Avenue
Suite 4800
Seatttle, WA 98104

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AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald A. Achs	:	
Application No. 10/940,573	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. DOMP-1-1005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 17, 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 Lawrence D. Graham 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 Joe Smith at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed February 4, 2008.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ronald Achs**
P.O. Box 2169
Sun Valley, CA 83353

cc: **Ronald Achs**
180 North Stetson
Suite 4525
Chicago, IL 60601

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
10/940,573	09/13/2004	Ronald A. Achs	DOMP-1-1005

CONFIRMATION NO. 6631

POWER OF ATTORNEY NOTICE

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

OC000000031555648

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/17/2008.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROPES & GRAY, LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of :
GOODMAN, et al. :
Application No. 10/940,574 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. **CF-91** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **ROPES & GRAY, LLP** has been revoked by the assignee of the patent application on January 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, LP
110 E. 59TH STREET, 6TH FLOOR
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

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OFFICE OF PETITIONS

In re Application of :
Ljerka Urainczyk :
Application No. 10/940,581 : DECISION REFUSING STATUS
Filed: 14 September, 2004 : UNDER 37 CFR 1.47(a)
Atty. Docket No. SP01-076 A (CIP) :

This is in response to the petition filed under 37 CFR 1.47(a) on 3 February, 2005.

The petition is **DISMISSED**.

Rule 47 applicant should file a reply within **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies.

The above-identified application was filed on 14 September, 2004, without an executed oath or declaration. Accordingly, on 1 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 3 February, 2005, the present petition, petition fee, and a one (1) month extension of time were filed, along with the late filing surcharge. A declaration naming Ljerka Ukrainczyk as the sole inventor was also filed.

Petitioners' counsel asserts that Debra Vastag is also an inventor and has refused to sign the declaration. Petitioners have provide a copy of a cover letter transmitting the declaration to Vastag, and have stated, via the declaration of counsel's patent secretary, Jennifer Kazukiewicz, that Vastag did not return the executed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or

located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioner has not provided proof that Huang was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The petition and letter sent to Vastag indicate that only the declaration and assignment were sent to her. However, in order for a Rule 47 petition to be granted, the inventor must be afforded an opportunity to review the application.[2] Therefore, petitioners should sent a copy of the application papers to Vastag's last known address. Petitioner 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 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 facts.

With regards to item (2), the declaration filed with the present petition lists Ljerka Ukrainczyk as the sole inventor. 37 CFR

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[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[3] Since the executed declaration filed on 3 February, 2005, lists Ukrainczyk as the sole inventor, a petition under 37 CFR 1.48, or under 37 CFR 1.183 requesting waiver of 37 CFR 1.48, is required if petitioner desires to now add Debra Vastag as a joint inventor.

It is noted that the fee for a petition under 37 CFR 1.47(a) is now $200.00. The balance due of $70.00 will be charged to counsel's deposit account, No. 03-3325, as authorized on the fee transmittal filed with the original application papers.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[3] MPEP 605.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-05

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of :
Ljerka Ukrainczyk : DECISION ON PETITION
Application No. 10/940,581 :
Filed: 14 September, 2004 :
Atty Docket No. SP01-076A :

This is a decision on the petition under 37 CFR 1.183 and 1.48(a)(1), filed on 27 April, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Debra Vastag; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 1.183 and 1.47."

On 14 September, 2004, the application was filed without an executed oath or declaration. Accordingly, on 1 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed declaration and a surcharge for its late filing.

In response, on 3 February, 2005, petitioners filed a one (1) month extension of time, a declaration naming Ljerka Ukrainczyk as the sole inventor, and a petition under 37 CFR 1.47(a) asserting that Debra Vastag was a joint inventor and would not

sign the declaration. The petition was dismissed on 8 March, 2005.

On 27 April, 2005, the present renewed petition was filed. Petitioners assert that a copy of the application was sent to Vastag, but that she has failed to sign and return the declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assginee, if any of the originally named inventors has executed an assignment.

The petition of record does not comply with items (1) and (2).

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventors is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

---

[1] MPEP 201.03(B).

In regards to items (1) and (2). With regard to item (1), the petition is deficient in that it does not adequately show or provide proof a statement of lack of deceptive intent was included among the papers sent to Vastag. While the letter to Vastag dated 19 April, 2005, references a copy of the application and an "inventor's statement," it is not clear that a copy of a statement of lack of deceptive intent was among the papers sent to Vastag. With regard to item (2), no copy of an oath or declaration listing Vastag as a joint inventor has ever been provided.

As such, it is not clear that the non-signing inventor refused to sign the new declaration after receipt thereof. Such does not constitute extraordinary circumstances where justice requires waiver of the rules. Petitioners must attempt to obtain the signature of each inventor, and a waiver will only be granted as to those inventor(s), if any, who refuse to sign the new declaration or cannot be located after having been sent or given a copy of the application papers, the new declaration naming the actual inventors, and a statement of lack of deceptive intent as required by 37 CFR 1.48(a).

Petitioners should sent a copy of the application papers (specification, including the claims, drawings, if any, and the *declaration and statement of lack of deceptive intent*) to Vastag with a request that she sign and return the declaration and statement of lack of deceptive intent. If she refuses to sign the declaration and statement lack of deceptive intent, petitioners may show that the application was sent or given by providing a copy of the cover letter transmitting the application papers and statement of lack of deceptive intent 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. If there is a written refusal, petitioners should 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 facts.

If the application and statement of lack of deceptive intent is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Vastag by providing a copy of an envelope showing that a letter sent to the last known address of Vastag was returned as undeliverable by the post office. Details of the efforts made to locate Vastag should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CORNING NY 14831

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OFFICE OF PETITIONS

In re Application of :
Ljerka Ukrainczyk : DECISION ON PETITION
Application No. 10/940,581 :
Filed: 14 September, 2004 :
Atty Docket No. SP01-076A :

This is a decision on the renewed petition styled under 37 CFR 1.47(a), filed on 19 July, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Debra Vastag; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 1.183 and 1.47."

On 14 September, 2004, the application was filed without an executed oath or declaration. Accordingly, on 1 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed declaration and a surcharge for its late filing.

In response, on 3 February, 2005, petitioners filed a one (1) month extension of time, a declaration naming Ljerka Ukrainczyk as the sole inventor, and a petition under 37 CFR 1.47(a) asserting that Debra Vastag was a joint inventor and would not

sign the declaration. The petition was dismissed on 8 March, 2005. The petition filed on 27 April, 2005, was dismissed on 26 May, 2005.

On 26 May, 2005, the present renewed petition was filed. Petitioners assert that a copy of the application was sent to Vastag, but that she has failed to sign and return the declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment

The petition of record does not comply with item (2).

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventors is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

---

[1] MPEP 201.03(B).

With regard to item (2), the petition is deficient in that it does not include a declaration listing both joint inventors and signed by inventor Ukrainczyk. As such, a decision on the petition under 37 CFR 1.183 to waive 37 CFR 1.48 will be held in abeyance pending submission of a declaration signed by joint inventor Ukrainczyk.

Petitioners should request that Ukrainczyk sign the new declaration naming the actual inventors. If Ukrainczyk, refuses to sign the declaration, petitioners may petition under 37 CFR 1.183 for waiver of 37 CFR 1.63 and 1.67 in that a named inventor must sign a supplemental declaration naming the actual inventors. Such a petition must be supported by a showing that a copy of the declaration naming all of the inventors was sent to Ukrainczyk with a request that he or she sign and return the declaration. If he or she refuses, petitioners must show diligent efforts to contact the newly recalcitrant inventor and obtain his or her signature on the supplemental declaration.

If he or she refuses to sign the declaration, petitioners may show that the declaration was sent or given by providing a copy of the cover letter transmitting 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. If there is a written refusal, petitioners should 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 facts.

If the declaration is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Ukrainczyk by providing a copy of an envelope showing that a letter sent to the last known address of Ukrainczyk was returned as undeliverable by the post office. Details of the efforts made to locate Ukrainczyk should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Department

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Response Due 10/10/05

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OFFICE OF PETITIONS

TMS

In re Application of :
Ljerka Ukrainczyk : DECISION ON PETITION
Application No. 10/940,581 :
Filed: 14 September, 2004 :
Atty Docket No. SP01-076A :

This is a decision on the renewed petition styled under 37 CFR 1.47(a), filed on 19 July, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Debra Vastag; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 1.183 and 1.47."

On 14 September, 2004, the application was filed without an executed oath or declaration. Accordingly, on 1 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed declaration and a surcharge for its late filing.

In response, on 3 February, 2005, petitioners filed a one (1) month extension of time, a declaration naming Ljerka Ukrainczyk as the sole inventor, and a petition under 37 CFR 1.47(a) asserting that Debra Vastag was a joint inventor and would not

sign the declaration. The petition was dismissed on 8 March, 2005. The petition filed on 27 April, 2005, was dismissed on 26 May, 2005.

On 26 May, 2005, the present renewed petition was filed. Petitioners assert that a copy of the application was sent to Vastag, but that she has failed to sign and return the declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment

The petition of record does not comply with item (2).

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48

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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventors is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

---

[1] MPEP 201.03(B).

With regard to item (2), the petition is deficient in that it does not include a declaration listing both joint inventors and signed by inventor Ukrainczyk. As such, a decision on the petition under 37 CFR 1.183 to waive 37 CFR 1.48 will be held in abeyance pending submission of a declaration signed by joint inventor Ukrainczyk.

Petitioners should request that Ukrainczyk sign the new declaration naming the actual inventors. If Ukrainczyk, refuses to sign the declaration, petitioners may petition under 37 CFR 1.183 for waiver of 37 CFR 1.63 and 1.67 in that a named inventor must sign a supplemental declaration naming the actual inventors. Such a petition must be supported by a showing that a copy of the declaration naming all of the inventors was sent to Ukrainczyk with a request that he or she sign and return the declaration. If he or she refuses, petitioners must show diligent efforts to contact the newly recalcitrant inventor and obtain his or her signature on the supplemental declaration.

If he or she refuses to sign the declaration, petitioners may show that the declaration was sent or given by providing a copy of the cover letter transmitting 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. If there is a written refusal, petitioners should 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 facts.

If the declaration is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate Ukrainczyk by providing a copy of an envelope showing that a letter sent to the last known address of Ukrainczyk was returned as undeliverable by the post office. Details of the efforts made to locate Ukrainczyk should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
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By FAX: (571) 273-8300
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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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Ljerka Ukrainczyk : DECISION ON PETITION
Application No. 10/940,581 :
Filed: 14 September, 2004 :
Atty Docket No. SP01-076A :

This is a decision on the twice renewed petition styled under 37 CFR 1.47(a), filed on 28 September, 2005, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Debra Vastag; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added; and (3) a petition under 37 CFR 1.47(a), which requires an oath or declaration signed by all of the inventors.

The petitions are **GRANTED**.

On 14 September, 2004, the application was filed without an executed oath or declaration. Accordingly, on 1 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed declaration and a surcharge for its late filing.

In response, on 3 February, 2005, petitioners filed a one (1) month extension of time, a declaration naming Ljerka Ukrainczyk as the sole inventor, and a petition under 37 CFR 1.47(a) asserting that Debra Vastag was a joint inventor and would not sign the declaration. The petition was dismissed on 8 March, 2005. The petition filed on 27 April, 2005, was dismissed on 26 May, 2005. The petition filed on 19 July, 2005, was dismissed on 10 August, 2005. On 28 September, 2005, the present renewed petition was filed.

Petitioners assert that a copy of the application was sent to Vastag on 21 December, 2004, but that she has failed to sign and

return the declaration. Petitioners further stated, in the declaration of Jennifer M. Kazukiewicz filed on 3 February, 2005, that Internet searches were made to locate a new address for Vastag. Despite diligent efforts a new address could not be located. Petitioners further assert that a copy of the application and statement of lack of deceptive intent mailed on 7 July, 2005, to Vastag were returned as undeliverable.

Petitions Under 1.183 and 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment

As a result of papers filed on 28 September, 2005, 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(a)(2).

In view of the efforts recounted in the petition to obtain the signature of Debra L. Vastag, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48(a).

The inventorship of this application has been changed by the addition of: Debra L. Vastag, Elmira Heights, NY.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's convenience.

Petition Under 37 CFR 1.47(a).

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

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 1731 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of :
Shouleh Nikzad, et. al. :
Application No. 10/940,591 : ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. CIT011 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 25, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a reply to the non-final Office action mailed December 4, 2006. A Notice of Abandonment was mailed on June 26, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2878 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
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Alexandria, VA 22313-1450
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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
John David Baniecki et al :
Application No. 10/940,605 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 030108A

This is a decision on the petition filed, October 11, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070125

DATE : January 25, 2007

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,105,302

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:

While form PTOL-37 incorrectly indicated claims claims 45, 48, 51 and 53 instead of claims 45,48, 51 and 52, the detailed action correctly indicated that claims 45, 48, 51 and 52 were allowed. Index of claims also correctly indicated claims 45, 48 , 51 and 52 were allowed and renumbered them as claims 1-4.. Claim 53 had not ben allowed.

PONNATHAPU ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

January 30, 2007

Daniel J. Pereira, Ph.D.
OBLON, SPIVAK, McCLELLAND, MAIER
& NEUSTADT, P. C.
1940 Duke Street
Alexandria, VA 22314

Patent No: 7105302 B2
Application No: 10/940606
Applicant: Brigitte Bathe, et al.
Issued: September 12, 2006
Title: **NUCLEOTIDE SEQUENCES CODING FOR THE PKNB GENE**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the printed patent reveals that there is no discrepancy. Per the examiner " the form PTOL-37incorrectly indicated claims 45,48, 51 and 53 instead of claims 45, 48, 51 and 52, however the detailed action correctly indicated the claims that were allowed. Claim 53 has not been allowed".

In view of the foregoing your request in these matters are hereby **denied**.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Mark J. Thronson
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW
Washington DC 20037-1526

In re Application of :
SUZUKI, HARUYUKI :
Application No. 10/940,626 : DECISION ON PETITION
Filed: September 15, 2004 : TO MAKE SPECIAL
For: **OPTICAL INFORMATION RECORDING MEDIUM, OPTICAL INFORMATION RECORDING APPARATUS, INFORMATION PROCESSING APPARATUS, OPTICAL INFORMATION RECORDING METHOD, PROGRAM AND RECORDING MEDIUM** :

This is a decision on the petition filed March 23, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of :
Jack Wu et al :
Application No. 10/940,640 : DECISION ON PETITIONS
Filed: September 15, 2004 :
Attorney Docket No. BHT-3207-46 :

This is a decision on the petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment filed July 17, 2006. This is also a decision on the petition filed July 24, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petitions are **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed March 14, 2006, which set a period for reply of three (3) months. Accordingly, the application became abandoned on June 15, 2006.

SUMMARY OF EVENTS:

On June 14, 2006 the Office received:

1. Transmittal Cover Sheet
2. Part B - Fee(s) Transmittal Form (in duplicate) along with authorization to charge Deposit Account No. 50-1874 in the amount of $1,000 to cover the Small Entity Issue and Publication Fees.

However, there were insufficient funds in the account on June 14, 2006 to charge for the above fees.

- June 26, 2006, a Notice of Abandonment was mailed alerting applicant that the issue and publication fees were(insufficient) not paid.

- July 17, 2006, a Petition To Withdraw Holding Of Abandonment Under 37 C.F.R. § 1.181, was filed along with a copy of an authorization to charge $1000 to deposit account no. 50-1874 and a copy of Form PTOL-85 bearing a receipt date of June 14, 2006 in the USPTO.

- July 18, 2006 and July 19, 2006, there were insufficient funds in account no. 50-1874 to charge for the issue and publication fees.

- July 24, 2007, a Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b) was filed.

The Office attempted to charge for the issue, publication and petition fees on July 25, 2007, February 5, 2008, and again on February 13, 2008, in which the account still indicated insufficient funds to charge for the above fees.

In view of the above, the petition to withdraw the holding of abandonment filed July 17, 2006 and the petition to revive filed July 24, 2007 are dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
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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400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Jack Wu et al :
Application No. 10/940,640 : DECISION GRANTING PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Fip.1171upjc :

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 14, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Data Management.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of	:	
KOJIMA, et al.	:	
Application No. 10/940,647	:	DECISION GRANTING PETITION
Filed: September 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 121097	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 14, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Request for Continued Examination and Information Disclosure Statement.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Chun Ta Chen	: DECISION ON REQUEST FOR
Patent Number	: 7602684	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Stefan Boerner	: DECISION ON REQUEST FOR
Patent Number	: 7664684	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,658	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1554** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/940,671	09/15/2004	Matthew Bells	42783-0091	7101

89133 7590 06/18/2010

Ridout & Maybee LLP
225 King Street West
10th Floor
Toronto, ON M5V 3M2
CANADA

EXAMINER	
HEFFINGTON, JOHN M	

ART UNIT	PAPER NUMBER
2179	

NOTIFICATION DATE	DELIVERY MODE
06/18/2010	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):

ridbee@ridoutmaybee.com
portfolioprosecution@rim.com

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RIDOUT & MAYBEE LLP
100 Murray Street
Ottawa, Ontario K1N 0A1
Canada

In re Application of:
BELLS, Matthew
Application No. 10/940,671
Filed: September 15, 2004
For: USER INTERFACE HAVING VIEWING AREA WITH NON-TRANSPARENT AND SEMI-TRANSPARENT REGIONS

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed May 10, 2010 to withdraw the finality of the Office action mailed March 8, 2010.

The petition is **GRANTED**.

BACKGROUND

"3. On June 10, 2009, Applicant filed a Response to the December 10, 2008 Office Action.

4. On August 20, 2009, a final Office Action was issued by the Examiner.

5. On November 2, 2009, a Notice of Appeal and Pre-Appeal Brief Request for Review were filed by Applicant.

6. On December 21, 2010, a Notice of Panel Decision for Pre-Appeal Brief Review was rendered, which ordered prosecution reopened. In particular, it provided that the August 20, 2009 rejection was withdrawn, a new Office Action would issue and no further action was required by the Applicant at that time.

7. As shown in the Search Notes published on March 8, 2010, on February 26 and 27, 2010 the Examiner conducted a further search.

8. On March 8, 2010, the present final Action was issued by the Examiner. This Action cited new §101 rejection, and new §103 rejections and relied on new references including Barnas, Isenman and Rosneberg et al."

Therefore, "Applicant respectfully submits that the present Office Action was made final prematurely for at least the following reasons:

1) The Finality of the Office Action is improper because the new grounds for rejection were not necessitated by Applicant's amendments.
2) The Finality of the Office Action is improper because the rejection is based on citation of new art."

RULES AND PROCEDURES

MPEP §1207.04 states in part: "Reopening of Prosecution After Appeal
The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP §706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits."

DECISION

In the Office action mailed March 8, 2010, claims 21-40 "are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter," "claims 21-23 and 25-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bagnas (US 5,805,163) and Isenman (US 6,356,281 B1) incorporated by reference in Bagnas in view of Rosenberg et al. (US 2002/0090198 A1), and "claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bagnas (US 5,805,163) and Isenman (US 6,356,281 B1) incorporated by reference in Bagnas in view of Rosenberg et al. (US 2002/0090198 A1) and further in view of Fritz et al. (US 2003/0043390)." Both the 35 U.S.C. §101 rejection and the 35 U.S.C. §103(a) rejections are new grounds of rejections established for the first time in the March 8, 2010 Office action.

In the Amendment filed June 10, 2009, claims 21 and 35 were amended as follows:

21. (currently amended) A method for displaying, in a graphical user interface having overlapping viewing areas, a foreground viewing area having foreground viewing
area content over a background viewing area having background viewing area

content,
the method including the steps of:

a. displaying the foreground viewing area with an interior region having a first opacity index that determines the extent to which any part of the background viewing area overlapped thereby ~~is obscured by~~ may be visible through the foreground
viewing area content contained therein and a multiple pixel width border region surrounding the interior region having a second opacity index that determines the extent to which any part of the background viewing area overlapped thereby is ~~obscured by~~ may be visible through the foreground viewing area content contained
therein, wherein the first and second opacity indexes are chosen so that the ~~foreground~~
background viewing area ~~obscures~~ is visible through the ~~background~~ foreground viewing area content to a ~~greater~~ lesser extent in the interior region than in the border
region; and

b. displaying the background viewing area content lying beyond the foreground viewing area.

35. (currently amended) A computer program product having a computer-readable medium tangibly embodying computer executable instructions for displaying, in a graphical user interface having overlapping viewing areas, a foreground viewing area having foreground viewing area content over a background viewing area having
background viewing area content, the computer executable instructions including:

computer executable instructions:

for displaying the foreground viewing area with an interior region having a first opacity index that determines the extent to which any part of the background viewing
area overlapped thereby ~~is obscured by~~ may be visible through the foreground viewing
area content contained therein and a multiple pixel width border region surrounding the
interior region having a second opacity index that determines the extent to which any
part of the background viewing area overlapped thereby ~~is obscured by~~ may be visible
through the foreground viewing area content contained therein, wherein the first and
second opacity indexes are chosen so that the ~~foreground~~ background viewing

area
obscures the ~~background~~ foreground viewing area content to a ~~greater~~ lesser extent in the interior region than in the border region; and

for displaying the background viewing area content lying beyond the foreground viewing area,

Upon carefully reviewing each of claims 21 and 35, it is readily apparent that the basis for the 35 U.S.C. § 101 rejection of claim 21, the "claims are drawn to a method for displaying in a graphical user interface and are not associated with a statutory category of invention," and the basis for the 35 U.S.C. § 101 rejection of claim 35, the "claimed computer readable medium is not defined in the specification and could include such computer readable mediums as a signal or a wave," are not necessitated by the amendments thereto. Accordingly, the finality of the Office action mailed March 8, 2010 does not meet the conditions set forth in MPEP § 1207.04.

Therefore, the petition is **GRANTED,** and the finality of the Office action mailed March 8, 2010 has been withdrawn.

Furthermore, the Amendment filed May 10, 2010 will be treated as a reply filed under 37 C.F.R. § 1.111(b), and entered as a matter of right. The examiner of record will continue examination based on the entry of this amendment.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

Wendy Garber
Director, Technology Center 2100

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OFFICE OF PETITIONS

In re Application of :
Bhanap et al. :
Application No. 10/940682 : DECISION DISMISSING PETITIONS
Filed: 09/15/2004 : UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. H0005623 :

This is a decision on the petition, filed on October 30, 2007, which is treated as 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, 365(c), and 119(e) for the benefit of priority to the prior-filed international 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.

It is additionally noted that although the amendment states that the PCT application claims the benefit of provisional Application No. 60/442,479, filed on January 25, 2003, a review of the published PCT application, PCT/US2004/002252, reveals that the PCT application claims benefit of provisional Application No. 60/442,279, but does not claim the benefit of Application No. 60/442,479.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application.

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Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Bhanap et al.
Application No. 10/940682
Filed: 09/15/2004
Attorney Docket No. H0005623

DECISION DISMISSING PETITIONS
UNDER 37 CFR 1.78(a)(3) and (a)(6)

This is a decision on the renewed petition, filed on January 16, 2008, which is treated as 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, 365(c), and 119(e) for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petition is again **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).

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See

also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

In this regard, the benefit claims in the concurrently-filed amendment are defective. First, a review of the prior-filed international application, No. PCT/US2004/002252, which entered the U.S. national stage as U.S. Application No. 10/543,347, reveals that no claim to the benefit of prior-filed provisional Application No. 60/442,479 was timely made.

As such, before the petition under 37 CFR 1.78(a)(3) and (a)(6) can be granted in the present application, petitioner must file a grantable petition under 37 CFR 1.78(a)(6) in national stage Application No. 10/543,347 to add the claim of benefit to the prior filed provisional application, No. 60/442,479. This is because 37 CFR 1.78(a)(5)(i) requires that any nonprovisional application or international application designating the United States of America 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 provisional application, identifying it by the provisional application number (consisting of series code and serial number).

Upon the grant of the petition under 37 CFR 1.78(a)(6) filed in Application No. 10/543,347, petitioner may filed a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) in the present application.

Second, the amendment states that Application No. 10/940,682, filed on September 15, 2004, claims the benefit of prior-filed provisional Application No. 60/442,479, filed on January 25, 2003. Application No. 60/442,479 was filed on January 25, 2003, however, which is more than 12 months from the filing of the subject application, No. 10/940,682, filed on September 15, 2004.

In this regard, 35 U.S.C. 119(e) states, in pertinent part, that

> (1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application.

Accordingly, the instant application cannot directly claim benefit to provisional Application No. 60/442,479. Petitioner must delete the improper claim of benefit of the subject nonprovisional

application to the provisional application which was filed more than 12 months prior to the filing of the subject nonprovisional application.

Petitioner may filed a renewed petition under 37 CFR §§ 1.78(a)(3) and (a)(6) in the present application, accompanied by a proper supplemental Application Data Sheet or substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) correcting the above matters.

Further correspondence with respect to this matter should be addressed as follows:

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Anthony Knight
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OFFICE OF PETITIONS

In re Application of	:	
Bhanap et al.	:	
Application No. 10/940682	:	DECISION DISMISSING PETITIONS
Filed: 09/15/2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. H0005623	:	

This is a decision on the "SECOND RENEWED PETITION UNDER 37 C.F.R. § 1.78 TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. § 120," filed on June 20, 2008, which is treated as a renewed 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, 365(c), and 119(e) for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petition is again **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. **Where a nonprovisional application is claiming the benefit under 35 U.S.C. 120 of a prior national stage application under 35 U.S.C. 371, a suitable reference would read "This application is a continuation of U.S. Application No. 08/---, which was the National Stage of International Application No. PCT/DE95/---, filed ---."** *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) 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.

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In re Application of	:	
Bhanap et al.	:	
Application No. 10/940682	:	DECISION ON PETITION
Filing or 371(c) Date: 09/15/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket Number: H0005623	:	

This is a decision on the twice renewed petition, filed on August 21, 2008, which is treated as 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, 365(c), and 119(e) for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petition is again **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 satisfy item (1) above.

The proposed amendment to claim priority to the prior-filed applications cannot be entered because the examiner has determined that the proposed amendment raises new issues that would

require further consideration and/or search. Accordingly, submission of a Request for Continued Examination (RCE) is required as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

An Advisory Action will be mailed to applicants under separate cover.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and (a)(6) and an RCE must be filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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

RICHARD S. ROBERTS
P.O. BOX 484
PRINCETON NJ 08542-0484

COPY MAILED
DEC 0 8 2008

In re Application of	:	
Bhanap et al.	:	
Application No. 10/940682	:	DECISION ON PETITIONS
Filed: 09/15/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. H0005623	:	AND 37 CFR 1.55(c)

This is a decision on the "FOURTH RENEWED PETITION UNDER 37 C.F.R. § 1.78 TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. § 120," filed on November 13, 2008, which is treated as renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c), 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, 365(c), 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, 365(c), 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2812 for consideration by the examiner of the claim under 35 U.S.C. §§120, 365(c), and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/940,682	09/15/2004	2812	1062	H0005623	29	3

CONFIRMATION NO. 7150

Richard S. Roberts
P.O. Box 484
Princeton, NJ 08542-0484

CORRECTED FILING RECEIPT

Date Mailed: 12/08/2008

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)

Anil S. Bhanap, Milpitas, CA;
Teresa A. Ramos, San Jose, CA;
Nancy Iwamoto, Ramona, CA;
Roger Y. Leung, San Jose, CA;
Ananth Naman, San Jose, CA;

Power of Attorney:

Richard Roberts--27941
Virginia Szigeti--29039
Colleen Szuch--32126
Margaret Millikin--38969
Scott Jacobson--42689
Marisa Roberts--43048
Deborah Chess--44611
Richard Roberts Jr.--46024

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/510,024 10/08/2003
and is a CIP of 10/543,347 02/28/2006
which is a 371 of PCT/US04/02252 01/26/2004
which claims benefit of 60/442;479 01/25/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/940,682**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Repairing damage to low-k dielectric materials using silylating agents

Preliminary Class

438

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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Kazuma Kan et al :
Application No. 10/940,684 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 50099-277 :

This is a decision on the petition, filed July 27, 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 February 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2854 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : August 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Kazuma Kan et al
Application No. :10/940,684
Filed :September 15, 2004

The above-identified application has been assigned Patent No. 6,923,120 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,923,120 to Kazuma Kan et al of Japan for APPARATUS AND METHOD FOR CONVEYING MATERIAL TO AN IMAGING DRUM appearing in the Official Gazette of August 2, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Womble Carlyle Sandridge & Rice, PLLC
ATTN: Patent Docketing, 32nd Floor
P.O. Box 7037
Atlanta, GA 30357-0037

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Catherine A. PHILLIPS :
Application No. 10/940,691 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. V029 1020.1 : 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 February 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 Carl B. Massey, Jr. 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 July 24, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica. A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Catherine A. Phillips
3001 West 27th Avenue, Apt# 16
Amarillo, TX 79109

cc: Daniel M. Chambers
BIOTECHNOLOGY LAW GROUP
658 Marsolan Avenue
Solana, CA 92075-1931

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BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Catherine A. Phillips	:	
Application No. 10/940,691	:	DECISION ON PETITION
Filed: September 15, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. V029 1020.1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1633 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.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/940,691	02/01/2005	1633	4030	VET-1020-CT	16	50	10

CONFIRMATION NO. 7138

35938
BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIOIP
PO BOX 52050
MINNEAPOLIS, MN 55402

CORRECTED FILING RECEIPT

OC000000022208837

OC000000022208837

Date Mailed: 01/29/2007

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)

Catherine A. Phillips, Amarillo, TX;

Assignment For Published Patent Application

Department of Veterans Affairs, Rehabilitation R&D Service, Baltimore, MD

Power of Attorney: The patent practitioners associated with Customer Number **35938**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/07934 03/14/2003
which claims benefit of 60/364,498 03/15/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/940,691

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and compositions using cellular asialodeterminants and glycoconjugates for targeting cells to tissues and organs

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/940,698	09/13/2004	1762	2634	42P19691	17	70	10

CONFIRMATION NO. 6959

CORRECTED FILING RECEIPT

OC000000014907828

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 01/07/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jingwu Zhang, Residence Not Provided;
Xing Su, Residence Not Provided;
Sun Lei, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

External modification of composite organic inorganic nanoclusters

Preliminary Class

427

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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Paper No.

How Lane Company Limited
P.O. Box 44-2049
Taipei 10668
TAIWAN

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Tung-Bau Tsai : DECISION ON
Application No. 10/940,708 : PETITION
Filed: September 15, 2004 :
Title: MEMORY HEAT-DISSIPATING:
DEVICE :

This is a decision on the PETITION TO REVIVE PATENT APPLICATION-UNINTENTIONAL FAILURE TO PAY ISSUE FEE (37 C.F.R. § 1.137(b) filed February 16, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, September 12, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A payment by check was received on November 24, 2006. However, the check was returned un-cashed. No proper reply having been received, the above-identified application became abandoned on December 13, 2006. A courtesy Notice of Abandonment was mailed on January 8, 2007.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[1] There was no distinct but concurrent requirement for new drawings.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P O BOX 44-2049
TAIPEI 10668 TAIWAN

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OFFICE OF PETITIONS

In re Application of :
Tung-Bau Tsai :
Application No. 10/940,708 : DECISION ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. TB06P0163US :

This is a substitute decision on the petition under 37 CFR 1.137(b), filed February 16, 2007, to revive the above-identified application. For the reason stated below, the petition is being treated as one under 37 CFR 1.181 requesting that the holding of abandonment be withdrawn.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 12, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 12, 2006. A Notice of Abandonment was mailed on January 8, 2007.

The record of this file indicates that a check for the issue and publication fees was tendered on November 24, 2006; however, this check was returned to the USPTO. Since the rendering of the decision dismissing the petition of February 16, 2007, the Office of Finance has informed the Office of Petitions that the returned check was an error on the part of the bank for the USPTO. The November 24, 2006 timely received funds from the check have since been applied towards payment of the issue and publication fees. As the funds for payment of the issue and publication fees were timely paid, this application was held abandoned in error. In view thereof, the Notice of Abandonment of January 8, 2007 was mailed in error and is hereby vacated. Further, the decision mailed April 18, 2007 granting the petition to revive under 37 CFR 1.137(b) is also vacated in favor of this decision withdrawing the holding of abandonment.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment does not require payment of a fee. Therefore, the

$750 petition fee, as well as the duplicate $700 issue fee and the $300 publication fee received on February 16, 2007, will be refunded in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is currently scheduled to issue on May 22, 2007.

Frances Hicks
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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Chih-Yi Tsai	:	
Application No. 10/940,721	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. MR2665-64	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 30, 2006. Accordingly, the date of abandonment of this application is May 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00 and the publication fee of $300.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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October 3, 2007

D. Richard Anderson
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P. O. Box 747
Falls Church, VA 22040-0747

Patent No.: 7,207,639 B2
Application No.: 10/940727
Inventor(s): Yasuhiko Kachi, et al.
Issued: April 24, 2007
Title: **IMAGE RECORDING APPARATUS AND METHOD**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Patent No. 7,207,639 :
Issue Date: April 24, 2007 :
Application No. 10/940,727 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 0879-0464PUS1 :

This is a decision on the petition filed October 17, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC, 20001-4413

In re Application of :
Sato and Onishi :
Application No. 10/940,757 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No.: 4329.2804-01 :

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2005, requesting that the above-identified application retain the presently accorded filing date with page 114 of the specification as part of the original disclosure.

The petition is **dismissed**.

On September 15, 2004, the above-identified application was filed. However, on January 13, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application", stating that application had been accorded a filing date of September 15, 2004, and advising applicant that page 114 of the specification appeared to have been omitted.

In response, on March 9, 2005, applicant filed the present petition. Applicant argues that the instant application is a divisional of application 10/109,714 and that the instant application incorporated by reference the entirety of the prior application, which contained page 114 of the specification, therefore; the instant application was complete on filing.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner does not argue that page 114 of the specification was present on filing and does not request that the application be accorded a filing date as of the date of omitted item was supplied.

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 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 applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, page 114 of the specification is not new matter if they were a part of the disclosure of the prior application. Petitioner should file page 114 of the specification as a preliminary amendment whereupon the examiner for new matter will review it.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2004, using only the application papers present on filing. The copy of page 114 of the specification will not be processed for examination, but will be kept in the application file.

The petition fee will not be refunded as this petition was necessitated by the applicant's filing error, rather than an error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2004 using the 121 pages of the specification filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/940760	09/15/04	TORR, DOUGLAS G.	13924.0001-C1

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

EXAMINER	
JACKSON, STEPHEN	
ART UNIT	PAPER NUMBER
2836	

DATE MAILED: 12/18/07

NOTICE OF RESCINDED ABANDONMENT

☒ In response to your communication filed 7/17/07

☐ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.

For Kendrick Smith
Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Torr et al.	:	REGARDING
Application No. 10/940,760	:	PATENT TERM ADJUSTMENT
Filed: September 15, 2004	:	
Atty Docket No. 13924.0001-C1	:	

This is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND TO RECALCULATE PATENT TERM ADJUSTMENT," filed April 14, 2006 (and resubmitted July 17, 2007). The paper was forwarded to the undersigned for consideration of the request to recalculate patent term adjustment. (By Notice mailed December 18, 2007, the abandonment was rescinded).

The request is **DISMISSED**.

Preliminarily, applicant is reminded that pursuant to 37 CFR 1.4(c),

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Accordingly, the submission of a request to recalculate patent term adjustment set forth in a paper directed to another matter may not be considered.

Furthermore, in this instance, such request is premature. 37 CFR 1.705(d) provides that:

> (d) 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.

The instant patent will issue with a revised calculation of patent term adjustment that may be affected by the abandonment of the application after the mailing of the notice of allowance. If necessary, pursuant to 37 CFR 1.705(d), patentees may then request reconsideration of the revised patent term adjustment within 2 months of the issuance of the patent and with payment of the fee set forth in 1.18(e).

The Publishing Division has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Soren Dahl	: DECISION ON REQUEST FOR
Patent Number	: 7585339	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1275** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SONNENSCHEIN NATH & ROSENTHAL
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Hiroyuki Akashi et al :
Application No. 10/940,788 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. 09792909.5999 :

This is a decision on the petition, filed March 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : March 6, 2006

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MAR 06 2006
OFFICE OF PETITIONS

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hiroyuki Akashi et al
Application No. :10/940,788
Filed :September 14, 2004

The above-identified application has been assigned Patent No. 7,008,727 and an issue date of March 7, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 7, 2006:

"All reference to Patent No. 7,008,727 to Hiroyuki Akashi et al of Japan for SOLID ELECTROYTE BATTERY appearing in the Official Gazette of March 7, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Patent Law Office of David G. Beck
P.O. Box 1146
Mill Valley, CA 94942

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MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Ross Alan Tessien, et al.	:	
Application No. 10/940,792	:	DECISION ON PETITION
Filed: September 14, 2004	:	TO WITHDRAW
Attorney Docket No. IMP019CP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **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 G. Beck 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 Joe Smith at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed December 15, 2006.

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: **Ross Tessien c/o Impulse Devices, Inc.**
13366 Grass Valley Avenue
Unit H
Grass Valley, CA 95945

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
10/940,792	09/14/2004	Ross Alan Tessien	IMP019CP

CONFIRMATION NO. 7086

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

POWER OF ATTORNEY NOTICE

OC000000029142032

Date Mailed: 03/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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NIRO, SCAVONE, HALLER & NIRO
181 W. MADISON
SUITE 4600
CHICAGO IL 60602

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MAY 25 2006
OFFICE OF PETITIONS

In re Application of
David Smith
Application No.10/940,807
Filed: September 13, 2004
Attorney Docket Number: 3571
Title of Invention: Air Activated Decanter

ON PETITION

This is a decision on the petition filed May 1, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 15, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 15, 2006. A Notice of Abandonment was mailed on April 6, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Jacques M. Dulin, Esq. DBA
Innovation Law Group, Ltd.
237 North Sequim Avenue
Sequim, WA 98382-3456

In re Application of :
James Frederick Vorhies et al. :
Application No. 10/940,864 : DECISION ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. 7161-004US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed January 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 18, 2007. A Notice of Abandonment was mailed on September 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3643 for appropriate action by the Examiner in the normal course of business on the reply received April 17, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Thomas L. Peterson
1233 20th Street NW
Suite 703
Washington, DC 20036

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JACQUES M. DULIN, ESQ. DBA
INNOVATION LAW GROUP, LTD.
237 NORTH SEQUIM AVENUE
SEQUIM WA 98382-3456

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OFFICE OF PETITIONS

In re Application of :
James Frederick Vorhies et al. :
Application No. 10/940,864 : DECISION ON PETITION
Filed: September 13, 2004 : TO WITHDRAW
Attorney Docket No. 7161-004US : 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 5, 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 Jacques M. Dulin on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents and a Statement under 37 CFR 3.73(b) must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James Frederick Vorhies
40 Vorhies Way
Sequim, WA 98382

cc: Thomas L. Peterson, Esq.
Brundidge & Stanger
1700 Diagonal Road, Suite 330
Alexandria, VA 22314

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/940,864	09/13/2004	James Frederick Vorhies	7161-004US

CONFIRMATION NO. 7661

POWER OF ATTORNEY NOTICE

35531
JACQUES M. DULIN, ESQ. DBA
INNOVATION LAW GROUP, LTD.
237 NORTH SEQUIM AVENUE
SEQUIM, WA 98382-3456

OC000000037864263

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MARSHALL, GERSTEIN &
BORUN LLP
233 S. WACKER DRIVE, SUITE
6300
SEARS TOWER
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of

Gurney, et al.

Application No. 10/940,867

Filed: September 14, 2004

Attorney Docket No. 29915/6177PCP.A

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed April 4, 2007, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period and the application became abandoned on May 5, 2007. A Notice of Abandonment was mailed on October 18, 2007.

The election filed December 20, 2007, will be considered as the reply required by 37 CFR 1.137(b).

The application is being forwarded to Technology Center 1600, GAU 1649 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Abtar Singh	: DECISION ON REQUEST FOR
Patent Number	: 7644591	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,877	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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DIRECTOR
TECHNOLOGY CENTER 2600

Brian Rolffe, ESQ.
11 Sunrise Plaza, Suite 303
Valley Stream, NY 11580-6170

In re Application of :
David S. Breed :
Application No. 10/940,881 : DECISION ON PETITION
Filed: September 13, 2004 : TO MAKE SPECIAL
For: ASSET SYSTEM CONTROL :
ARRANGEMENT AND METHOD :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed April 11, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of David S. Breed passport, showing that he 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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BRIAN ROFFE, ESQ
540-B WILLOW AVENUE
CEDARHURST, NY 11516-2211

Mail Date: 04/21/2010

Applicant	: David S. Breed	: DECISION ON REQUEST FOR
Patent Number	: 7663502	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/940,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **471** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRIAN ROFFE, ESQ
540-B WILLOW AVENUE
CEDARHURST, NY 11516-2211

Mail Date: 05/18/2010

Applicant : David S. Breed
Patent Number : 7663502
Issue Date : 02/16/2010
Application No: 10/940,881
Filed : 09/13/2004

: 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 **509** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

In re Application of :
Richard H. Brown :
Application No. 10/940,886 : DECISION DISMISSING PETITION
Filed: September 13, 2004 :
Attorney Docket No. END92000040060US1:

This is a decision on the petition filed April 11, 2007, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of September 14, 2007.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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 1.10."

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on September 14, 2007. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EL10260687USUS showing a "date-in" of September 14, 2004.

Section 1.10(a) of the Title 37 of the Code of Federal Regulations indicates that correspondence received by the Patent and Trademark Office that was delivered by Express Mail will be considered filed in the Office on the date of deposit with the United States Postal Service. Where there is a discrepancy between the date of deposit as shown on the Express Mail label and the filing date accorded the correspondence by the Office, 37 CFR 1.10(c) provides that an applicant may petition to have the Commissioner accord the correspondence a filing date as of the "date in" on Express Mail label. In accordance with 37 CFR 1.10(c), a successful petition must:

> (1) . . . be filed promptly after the person becomes aware that the Office has accorded or will accord a filing date other than the USPS deposit date;
>
> 2) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constituted the correspondence prior to the original mailing by Express Mail; and
>
> (3) . . . include a true copy of the Express Mail mailing label showing the date-in and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition does not satisfy the requirements of item (1) above.

As to item (1), petitioner has not established that the petition was filed promptly after petitioner discovered that the filing date might be incorrect. Petitioner must explain when petitioner discovered that the application had been accorded an incorrect filing date and what steps were taken to ensure the petition was promptly filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

In re Application of :
Richard H. Brown :
Application No. 10/940,886 : DECISION GRANTING PETITION
Filed: September 14, 2004 :
Attorney Docket No. END92000040060US1 :

This is a decision on the renewed petition filed February 6, 2009, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of September 14, 2004, rather than the presently accorded filing date of September 13, 2004.

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on September 14, 2007. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EL10260687USUS showing a "date-in" of September 14, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on September 14, 2004.

In view of the above, the renewed petition is granted. The new filing date for the above-cited application is September 14, 2004.

The application file is being directed to the Office of Patent Application Processing where the application will be accorded a filing date of September 14, 2004, and a corrected filing receipt issued.

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 AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

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MAR 22 2006

OFFICE OF PETITIONS

In re Application of :
Christopher M. McGregor et al. :
Application No. 10/940,920 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No.: 23758D :

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 1, 2005 for failure to timely file a reply to the final Office action mailed June 30, 2005, which set a three (3) month shortened statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Additionally, the instant petition is filed with a three month extension of time and a Notice of Appeal. Pursuant to 37 CFR 1.136 however, 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 January 25, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 06-0930.

The Notice of Appeal filed January 25, 2006 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2876 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of
Tsukahara, Norihito et al
Serial No.: 10/940,933
Filed: Sep. 15, 2007
Docket: 2004_1400A
Title: CIRCUIT BOARD FABRICATION METHOD AND CIRCUIT BOARD

DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE UNDER 37 CFR §1.181

This is a decision on the petition filed on Nov. 14, 2007 by which petitioner requests withdrawal of the finality of the Office Action dated Oct. 31, 2007. The petition is considered pursuant to 37 CFR §1.181, and no fee is required.

The petition is dismissed.

Petitioner's Position

In the petition, petitioner argues that in the non-Final Office action in the first Office Action on the merits, mailed May 15, 2007, the Examiner indicated, that claims 3-6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the response filed August 15, 2007, applicants amended the sole independent claim 1 to include the feature recited in claim 3 (which depended directly from claim 1). As such, claim 1 should have been immediately allowable in view of the Examiner's indication of the allowability of claim 3. However, in the final Office Action dated Oct. 31, 2007, the Examiner rejected claims 1 and 2 as being anticipated by Ogawa (JP 2002-033562). Therefore, this rejection is a new ground of rejection not necessitated by the Amendment filed August 15, 2007. Petitioner further points out that original claim 1 set forth a step (c) that included two alternatives: (i) "making a pillar-like member stand on a prescribed position on the first conductive interconnection before applying the resin film", and (ii) "press fitting the pillar-like member into the resin film in such manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film". Original claim 3 included a modification of the first alternative (i) of step (c). That is, claim 3 stated that "making the pillar-like member stand on the prescribed position on a first conductive interconnection before applying the resin film is performed ... by fixing the pillar-like member by providing one of a sticky layer and an adhesive layer between the first

conductive interconnection and the pillar-like member." Accordingly, in order to expedite allowance of the application, applicants amended claim 1 by adding, after "making a pillar-like member stand on a prescribed position on the first conductive interconnection before applying the resin film", the language of claim 3 "by fixing the pillar-like member by providing one of the sticky layer and an adhesive layer between the first conductive interconnection and the pillar-like member." This language added to step (c) of claim 1 was properly incorporated in claim 1 by having it modify only the first alternative set forth in step (c), because that is the alternative that original claim 3 explicitly further modified. As such, the rejection presented in item 4 on pages 2 and 3 of the final Office Action dated October 31, 2007 constituted a new ground of rejection which was not necessitated by the amendment filed August 15, 2007.

Analysis of Application Record.

MPEP 706.07(a) states in part: "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)." [*Emphasis added*].

In order to determine whether or not the original independent claim 1 and dependent claim 3 are identical in scope, a comparison of the claims must be made. Original independent claim 1 and dependent claim 3 filed on Sep. 15, 2004 are reproduced below:

> 1. A circuit board fabrication method for forming a circuit board with a multi-layer structure onto an insulator substrate by a build-up process, comprising: (a) forming a first conductive interconnection onto the insulator substrate; b) applying a resin film, which is to be an interlevel insulator layer for electrically insulating the first conductive interconnection and a second conductive interconnection, onto the insulator substrate; (c) one of making a pillar-like member stand on a prescribed position on the first conductive interconnection before applying the resin film, and press fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film; (d) hardening the resin film to form the interlevel insulator layer; (e) pulling out the pillar-like member to form an opening in the interlevel insulator layer; and (f) forming a second conductive interconnection onto the interlevel insulator layer in such a manner as to include the opening.
>
> 3. The circuit board fabrication method according to claim 1, wherein making the pillar-like member stand on the prescribed position on the first conductive interconnection before applying the resin film is performed by fixing the pillar-like member by providing one of a sticky layer and an adhesive layer between the first conductive interconnection and the pillar-like member.

The relevant portion of the non-final Office Action is also reproduced below:

> 6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogawa (JP2002033562). Ogawa discloses forming a first conductive interconnection (2, Figs. 1-3) onto the insulator substrate (Figs. 1-3), applying a resin film (3, Figs. 1-3) onto the insulator substrate, one of making a pillar-like member (22, Figs. 1-3) stand on a prescribed position on the first conductive interconnection before applying the resin film (see Fig. 3), and press fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film (see Figs. 1-2), hardening the resin film, pulling out the pillar-like member to form an opening in the resin film, and forming a second conductive interconnection (24, Fig. 2) onto the resin film in such a manner as to include the opening. The process is repeated several times to form a multi-layer structure. See Abstract as well as the Machine Translation, especially paragraphs 26, 29, and 42.

7. Claims 3-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The newly amended independent claim 1 (with dependent claim 3 incorporated) as filed on Aug. 15, 2007 is also reproduced below:

1 Claim 1. (Currently Amended) A circuit board fabrication method for forming a circuit board with a multi-layer structure onto an insulator substrate by a build-up process, comprising: (a) forming a first conductive interconnection onto the insulator substrate; (b) applying a resin film, which is to be an interlevel insulator layer for electrically insulating the first conductive interconnection and a second conductive interconnection, onto the insulator substrate; (c) one of making a pillar-like member stand on a prescribed position on the first conductive interconnection before applying the resin film by fixing the pillar-like member by providing one of a sticky layer and an adhesive layer between the first conductive interconnection and the pillar-like member and press fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film; (d) hardening the resin film to form the interlevel insulator layer; (e) pulling out the pillar-like member to form an opening in the interlevel insulator layer; and (f) forming a second conductive interconnection onto the interlevel insulator layer in such a manner as to include the opening.

A relevant portion of the final rejection of Oct. 31, 2007, has been reproduced below:

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogawa (JP2002033562). Ogawa discloses forming a first conductive interconnection (2, Figs. 1-3) onto the insulator substrate (Figs. 1-3), applying a resin film (3, Figs. 1-3) onto the insulator substrate, and press fitting a pillar-like member (22, Figs. 1-3) into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film (see Figs. 1-2), hardening the resin film, pulling out the pillar-like member to form an opening in the resin film, and forming a second conductive interconnection (24, Fig. 2) onto the resin film in such a manner as to include the opening. The process is repeated several times to form a multi-layer structure. See Abstract as well as the Machine Translation, especially paragraphs 26, 29, and 42.

Allowable Subject Matter

5. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, **provided that the limitation "press-fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film" is removed, since this limitation is still anticipated, as presented above in the rejection under 35 U.S.C. 102(b).** [Emphasis added.]

Response to Arguments

6. Applicant's arguments filed 8/15/2007 have been fully considered but they are not persuasive. While Applicant has amended claim 1 to include the limitations of claim 3, which was previously indicated allowable, Applicant has not cancelled the limitation "press-fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film". Step (c) of claim 1 provides a choice between two limitations. This is a more compact way of writing one independent claim having step (c) directed only to "making a pillar-like ... and the pillar-like member" and one independent claim having a step (c) directed only to "press fitting ... applying the resin film". The first of these claims is allowable, by virtue of incorporating allowable claim 3. However, the second of these claims can still be rejected, as carefully articulated above, using the art applied in the previous Office Action. As such, this rejection can still be and is made final.

A comparison of original independent claim 1 with the new independent claim 1 reveals there is no change in scope with respect to the alternative limitation ""press-fitting the pillar-like member

into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film". However, with respect to the newly added limitation (previously recited in claim 3), that alternative limitation "by fixing the pillar-like member by providing one of a sticky layer and an adhesive layer between the first conductive interconnection and the pillar-like member" still found to be allowable as clearly indicated in the Paragraphs 5 and 6 of the final rejection mailed Oct. 31, 2007.

A comparison of the non-final Office action May 15, 2007 and the final-Office action Oct. 31, 2007 also shows that the two rejections are identical in verbatim. There is nothing changed in the rejections of May 15, 2007 and Oct. 31, 2007. Therefore, amended claim 1 has been rejected twice with respect to the same alternative limitations of "press-fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film". There is simply no new ground of rejection. However, the final rejection is proper because there is no amendment to the claim 1 with respect to the rejected alternative limitation"press-fitting the pillar-like member into the resin film in such a manner as to reach one of a surface vicinity of the first conductive interconnection and a portion of the first conductive interconnection after applying the resin film". Since there is no grounds of rejection, then, the petitioner is correct in stating the rejection was not necessitated any new amendment, but the final rejection remains to be proper.

Conclusion

Based on the analysis of the record, the examiner was correct in finding that the new amended claim remains finally rejected. Accordingly, there is no change in scope of original claim 1 and the newly amended claim 1, the final rejection is deemed proper. The petition is, therefore, dismissed.

Since the application has been allowed and the issue fee has been paid, the application is now being forwarded to the Office of Publications waiting for issuance of a patent. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :

Valerie Cheynet-Sauvion et al. :
Application No. 10/940,964 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. 104458.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record remains unchanged.

The attorneys/agents associated with the firm Oliff & Berridge remain of record.

There is an outstanding Office action mailed on June 26, 2006 that requires a reply for the attorneys/agents of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucel
Petitions Examiner
Office of Petitions

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MAY 18 2010

Richard Wydeven
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Washington, D.C. 20005

In re application of: : **DECISION ON PETITION**
Robert S. Solomon : **UNDER 37 CFR 1.181**
Application No. 10/940,979
Filed: September 15, 2004
For: INTERACTIVE COMPUTER-IMPLEMENTED SYSTEM AND METHOD FOR NEGOTIATING SALE OF GOODS AND/OR SERVICES

This is a decision on the petition filed on November 13, 2009 under 37 CFR 1.181 requesting entry of the amendment filed September 11, 2009.

The petition is **GRANTED**.

The file history shows that a response with amendments and arguments was filed by Applicant on November 12, 2008. A Final Office action addressing the amendments and arguments was mailed on March 19, 2009. On July 20, 2009 Applicant filed a Notice of Appeal. On September 11, 2009, in response to the Final Office action, Applicant filed an after final amendment and arguments, the amendment being filed after the filing of a Notice of Appeal but before the filing of an Appeal Brief. On September 18, 2009, Applicant filed an Appeal Brief containing an index of claims reflecting the after final amended claims of September 11, 2009. On September 23, 2009, in response to the after final amendment and arguments, the Examiner mailed an Advisory Action in which the Examiner denied entry of the proposed after final amendment, the Examiner stating that the amendments raise new issues that would require further consideration and/or search. On October 13, 2009, the Patent Appeals Specialist mailed a Notification of Non-Compliant Appeal Brief to the Applicant. On November 13, 2009, Applicant responded by filing a second Appeal Brief, this Appeal Brief also containing an index of claims reflecting the after final amended claims of September 11, 2009. On November 13, 2009, the Applicant also filed a Petition under 37.CFR Section 1.181 for review of the Examiner's refusal, as set forth in the Advisory Action dated September 23, 2009, to enter the amendments dated September 11, 2009. The amendments in the after final amendment where directed to claim 1 and claim 19.

In the November 12, 2008 response filed by Applicant, the preamble of claim 1 identified the invention as "[a]n interactive, computer-implemented ***system*** for conducting a negotiating session between a customer and a simulated merchant for

purchases of goods and/or services on a web site distributed over the internet, the ***method*** comprising: storage media..., a customer interface... and a computer in communication with said storage media and said customer interface and programmed with an algorithm including commands which when executed by the computer cause the computer to .... [perform the following actions)". Claim 19 identified the invention as "[t]he system of claim 1, where the algorithm when executed by the computer further cases the computer to determine an initial emotional state of the simulated merchant....." In the Final Office action mailed on March 19, 2009, the Examiner rejected claims 1, 2, 4-6, 9-10, 12-16 and 18-21 under 35 USC Section 101, 35 USC 103, and 35 USC 112, 2nd. In regards to the final rejection under 35 USC 101, the Examiner rejected claims 1, 2, 4- 6 and 19, stating that the claims were non-statutory because the claims fall in two statutory classes. The Examiner asserted that the Applicant is claiming both a system and method and that Applicant is claiming components of a system such as a storage device while also claiming various method steps. In the Final Office action, it is noted that the Examiner stated that "[f]or the purposes of examination, the Examiner will treat claim 1 as a system claim".

On September 11, 2009, in response to the Final Office action, Applicant filed an after final amendment and arguments wherein applicant amended the preamble of claim 1 to read as follows:

> An interactive, computer implemented system for conducting a negotiating session between a customer and a simulated merchant for purchases of goods and/or services on a web site distributed over the internet, the ~~method~~ system comprising ..... ".
>
> Claim 19 was amended to read as:
>
> "[t]he system of claim 1, wherein the algorithm, when executed by the computer ~~further causes~~ is configured to cause the computer to determine an initial emotional state....."

In response to the September 11, 2009 amendment, the Examiner mailed an Advisory Action on September 23, 2009 wherein the Examiner stated that the amendment would not be enter and set forth the following reasoning:

> Specifically, the Examiner asserts that the applicant has amended claim 1 from a method to a system claim. Consquently futher (*sic*) consideration is required to determine what claim limitations provide any functionality towards the system or whether the claim limitations are just the intended use of the system. With that said, the Examiner may need to consider whether the rejection regarding, at least, claim 1 may be a rejection under 102 than under 103. Additionally, the amendment towards claim 19 appears to positively recite the claimed limitation, but would require further consideration and analysis in order to determine whether the limitation is functional or just the intended use of the system. (See 37 CFR 1.116 and 41.33(a)).

On November 13, 2009, Applicant filed a Petition under 37 CFR 1.181 requesting Director review of the refusal of the Examiner to enter the amendment. The Applicant

also filed a second Appeal Brief, the Appeal Brief again reflecting in the Claims Appendix the amended claims filed on September 11, 2009.

In the Petition filed November 13, 2009, the Applicant asserts the after final amendment was filed under 37 CFR Section 41.33(a) in an effort to present claims 1 and 19 in better form for appeal by removing the 101 issues. Applicant states that, contrary to the Examiner's assertion that claim 1 falls into two statutory classes because the applicant is claiming both a system and method for conducting a negotiating session in the same claim, that the word "method" in the preamble of claim 1 is a typographical error. The applicant asserts that, with the exception of the word "method" in the preamble, claim 1 is otherwise unambiguously drawn to a system and dependent claims 2, 4-6 and 19 all refer to "the system of claim 1". Applicant further states that Applicant amendment to claim 19 was for the purpose of clarifying that claim 19 is a system claim and not a method claim. The Applicant argues that the proposed amendment should be entered because they place the application in better form for appeal by materially reducing or simplifying the issues for appeal and because the proposed amendments do not raise new issues that would require further consideration and /or search. The applicant asserts that the amendments to claims 1 and 19 have the total effect of removing the 35 USC 101 issue from appeal.

The relevant parts of 37 CFR 41.33 set forth the following as to amendments after appeal.

> 37 CFR 41.33. Amendments and affidavits or other evidence after appeal.
> (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title.
> (b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted:
>
> (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or
>
> (2) To rewrite dependent claims into independent form.
>
> (c) All other amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by § § 41.39(b)(1), 41.50(a)(2)(i), 41.50(b)(1) and 41.50(c).

MPEP section 1206 sets forth the following:

> 1206 [R-3] Amendments and Affidavits or Other Evidence Filed With or After Appeal
>
> I. AMENDMENTS
> A new amendment must be submitted in a separate paper. Entry of a new amendment in an application on appeal is not a matter of right. The entry of an amendment (which may not include a new affidavit, declaration, exhibit or other evidence) submitted in an application on appeal is governed by 37 CFR 41.33, not 37 CFR 1.116.

Amendments filed after the filing of a notice of appeal, but prior to the date of filing a brief, may be admitted only to:

(A) cancel claims;

(B) comply with any requirement of form expressly set forth in a previous action;

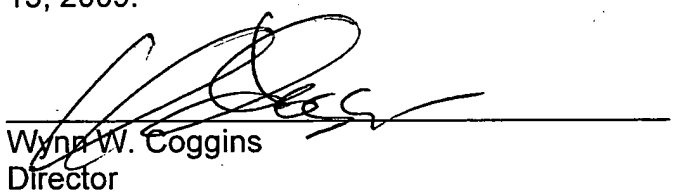
(C) present rejected claims in better form for consideration on appeal; or

(D) amend the specification or claims upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. See 37 CFR 41.33(a).

Regarding the after final amendment filed on September 11, 2009, the amendment was filed after the Notice of Appeal but prior to the date of filing the Appeal Brief. The word "method" in the preamble appears to be a typographical error since the interactive computer-implemented system comprises a storage media, a customer interface, and a computer. The claim language recites that the system comprises a computer in communication with said storage media and said customer interface and programmed with an algorithm including commands which when executed by the computer cause the computer to ... [perform the following actions]. The Office has held such language to be proper in a system claim. Claim 19 also properly sets forth a system claim. It is also noted that the Examiner stated on page 5 of the Final Office action that "for examination purposes, the Examiner will treat claim 1 as a system claim." Thus, the amendment correcting the word "method" to "system" would not require further consideration and/or search by the Examiner but rather places the application in better form on appeal by removing the rejection under 35 USC 101 as to claims 1 and 19.

The Petition is **GRANTED.**

The after final amendment of September 11, 2009 will be entered and the application will be returned to the Examiner for consideration of the Appeal Brief filed on November 13, 2009.



Wynn W. Coggins
Director
Technology Center 3600
571-272-5350

SM/jm/ 4/14/10

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SUITE 800
WASHINGTON, DC 20037

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DEC 04 2007

OFFICE OF PETITIONS

In re Application of :
Koji Wakabayashi :
Application No. 10/940,982 : DECISION GRANTING PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q83589 :

This is a decision on the petition, filed December 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 29, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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OFFICE OF PETITIONS

In re Application of	:	
Kenji Oda et al	:	
Application No. 10/940,993	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. Q82388	:	

This is a decision on the petition, filed August 20, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Restriction Requirement mailed February 15, 2007, which set a (1) month shortened statutory period for reply.

Petitioner asserts that the Office action dated February 15, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

No need to remail the Office action mailed February 15, 2007, since a response was received on November 28, 2007.

This application is being referred to Technology Center AU 2811 to consider the Response/Election of November 28, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

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SUGHRUE MION, PLLC
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SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/27/2010

Applicant	: Kenji Oda	: DECISION ON REQUEST FOR
Patent Number	: 7608863	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/940,993	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **627** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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TECHNOLOGY CENTER 2100

In re Application of: AKAGAWA, et al.
Application No. 10/941,006
Filed: 10 September 2004
For: COMPUTER SYSTEM AND COMPUTER SETTING 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 29 August 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 **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. § 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 this case, the petition fails to adequately meet the requirement (e) as set forth supra. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

The petition filed 29 August 2005 repeats **substantially the entirety** of the independent claim language (claims 1 and 9) and identifies all limitations as those limitations that the reference(s) do not show or suggest, thus the petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition does not specifically recite language or limitations from the independent claims to properly compare/contrast the claimed invention (each of the independent claims) with respect to the prior art in the identified references. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for each independent-claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference.

Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, for each independent-claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JUN 27 2007

TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of:
AKAGAWA, et al.
Application No. 10/941,006
Filed: September 10, 2004
For: COMPUTER SYSTEM AND
COMPUTER SETTING METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on June 30, 2006 of the original petition filed August 29, 2005 which was dismissed on May 5, 2006.

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.

The dismissal decision stated that the original the petition fails to adequately meet the requirement (e) as set forth supra. Those deficiencies have been corrected.

Petition to Make Special is hereby **GRANTED** because all the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file if 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.

Tod Swann
Workgroup Quality Assurance Specialist,
Tech. Center 2100
Computer Architecture, Software and Information Security
571-272-3612

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SEP 28 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Pet Paul Deo et al	:
Serial No.: 10/941,054	: PETITION TO MAKE SPECIAL
Filed: September 10, 2004	:
Attorney Docket No.: 021706-002900US	:

This is in response to applicants' petition filed September 19, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Joseph R. Snyder
Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :

Peter Paul Deo et al. :
Application No. 10/941,054 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. 021706-002900US : 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 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph R. Snyder and all attorneys/agents associated with customer number 20350 has been revoked by the assignee, Connetics Australia Party, Ltd. of the patent application on February 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

A Restriction for Restriction/Election was mailed on January 22, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: The Nath Law Group, PLLC
112 South West Street
Alexandria, VA 22314

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
10/941,054	09/10/2004	Peter Paul Deo	021706-002900US

CONFIRMATION NO. 6523

OC000000023364609

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 04/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2007.

- 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).

Kimberly Grabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 20 2009

OFFICE OF PETITIONS

Carr & Ferrell, LLP
2200 Geng Road
Palo Alto, CA 94303

In re Application of	:	
Stephen Bryant Liggett et al.	:	
Application No. 10/941,063	:	DECISION ON PETITION
Filed: September 13, 2004	:	TO WITHDRAW
Attorney Docket No. PA2796US	:	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 2, 2006.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to V. Randall Gard and all attorneys/agents of record has been revoked by the assignee of the patent application on March 23, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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 No. : 7,468,778 B2
Serial No. : 10/941,068
Inventor(s) : Thomas et al.
Issued : December 23, 2008
Title : **VIRTUAL STUDIO SYSTEM**
Docket No. : **31916-207771**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
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.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

ecw

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 2/26/2010
Patent No. : 7, 468,778 B2
Serial No. : 10/941,068
Inventor(s) : Thomas et al.
Issue Date : December 23, 2008
Title : **VIRTUAL STUDIO SYSTEM**
Doc./File No. : **31916-207771**

Respecting the alleged errors in your request for the Assignee, your most recent request for a certificate of correction dated 1/20/2010 was associated with a fee of $100. Eventhough a fee of was submitted along with the request, a petition must be filed and granted along with the appropriate fee of $130 as request in the denial letter dated 8/14/2010. Therefore, no correction is in order here.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**
ernest.white@uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

ecw

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Patent No. 7,468,778	:	
Issue Date: December 23, 2008	:	
Application No. 10/941,068	:	ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. 31916-207771	:	

This is a decision on the petition filed March 12, 2010, 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 **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 the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 – 19TH STREET, NW
WASHINGTON, DC 20036-2402

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OFFICE OF PETITIONS

In re Application of :

Choon B. Shim :
Application No. 10/941,070 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. QOVI-005/00US : 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 19, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
PO BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of :
Choon B. Shim :
Application No. 10/941,070 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. QOVI-005/00US : 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 6, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee has changed and the new assignee has different counsel", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
PO BOX 2938
MINNEAPOLIS, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 25, 2008

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/941124 Patent No.: 7314617 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ■ **Approved** — **All** changes apply.
- ❑ **Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Michael G. Wityshyn/ — **SPE**

1651 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 25, 2008

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/941124 Patent No.: 7314617 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

■ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

/Michael G. Wityshyn/ — SPE

1651 — 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

October 16, 2006

Patent No. : 7,102,590 B2
Ser. No. : 10/941141
Inventor(s) : Regala
Issued : September 5, 2006
Title : **PORTABLE TELESCOPING LINE-OF-SIGHT ARRAY ANTENNA**
Docket No. : 1740-P0002

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: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON FL 33487

CBN/eme

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P.O. Box 1450
Alexandria, VA 22313-1450
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FLEIT KAIN GIBBONS
GUTMAN BONGINI & BIANCO P.L.
551 N. W. 77TH STREET, SUITE 111
BOCA RATON, FLORIDA 33487

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SEP 14 2007

OFFICE OF PETITIONS

In re Patent No. 7,102,590 :
Issue Date: September 5, 2006 :
Application No. 10/941,141 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. 1740-P0002 :

This is a decision on the petition filed April 5, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required petition fee of $130 and the Certificate of Correction fee of $100, are being charged to deposit account no. 50-1556 as authorized.

There is no indication that the person signing the instant request was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant request desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

12-29-06

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No.: 7,134,646 B1
Inventor(s): Roy C. Brooks, et. al.
Issued : November 14, 2006
Title : PRIVACY FENCE SYSTEM

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.

Respecting the alleged error the misspelling of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

In view of the foregoing, your request is hereby again denied.

Any petition under 37 CFR 1.324(required fee currently $130) 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
Petitions Office
Washington, D.C. 20231

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Roy C. Brooks
7017 Clifton Knoll Court
Alexandria, VA 22315

eJ

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

KEUSEY, TUTUNJIAN & BITETTO, P.C.
20 CROSSWAYS PARK NORTH, SUITE 210
WOODDBURY, NY 11797

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SEP 02 2008

In re Application of :
Gabe **NEISER** :
Application No. 10/941,148 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 200-98 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 4, 2007 . The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on February 13, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-1433.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3724 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed amendment dated February 13, 2008 in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

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Paper No.

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Der Bruggen et al.	:	DECISION ON APPLICATION
Application No. 10/941,150	:	FOR
Filed: September 15, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. NY-LUD 5853-US (10411307)	:	

This is a decision on the "APPLICATION FOR PATENT TERM EXTENSION," filed August 25, 2008, which is properly treated as an application for patent term adjustment under 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred thirty five (435) days to five hundred eight (508) days.

The application for patent term adjustment is **DISMISSED**.

For the reasons stated herein, the Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred ninety-seven **(397)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 31, 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 (PTA) to date is 435 days. On August 25, 2008, applicants timely submitted the instant application for patent term adjustment[1]. Applicants state that the Office issued a Restriction Requirement, 471 days later than a first action should have issued. Applicants argue, however, that since the

[1] PALM records indicate that the Issue Fee payment was received on August 28, 2008.

Examiner considered claims which had already been cancelled, and did not consider the actual pending claims the Office action mailed March 1, 2007 should not be used in calculating Office delay in mailing a first Office action. Rather, applicants argue that the Office action mailed April 4, 2007 should be used in calculating the patent term adjustment, and consequently, an additional 37 days should be added to the patent term.

Applicants' argument has been considered, but is not well taken. Pursuant to 37 C.F.R. § 1.702(a),

> 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;

A notification under 35 U.S.C. 132 was mailed on March 1, 2007. Although the examiner remarked in the interview, as noted on the interview summary dated March 12, 2007, that the restriction requirement has been vacated, the Office action was actually withdrawn not vacated. Thereafter, a second notification under 35 U.S.C. 132 was mailed on April 4, 2007. The mailing of a second Office action withdrawing this action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on March 1, 2007. Accordingly, 471 days is the proper period of adjustment for Office delay in mailing a first Office action.

However, a review of the application did reveal a basis for entry of an additional period of reduction for applicant delay. As the amendments filed March 13, 2008 and April 3, 2008, were not in compliance with § 1.113(c), the period for reply to the final rejection mailed January 4, 2008, continued to run. See Advisory Actions mailed April 1, 2008 and April 22, 2008. The proper reply, a Notice of Appeal, was not received in the Office until May 12, 2008. Accordingly, the period of reduction is 38 days, counting the number of days beginning on April 5, 2008, the day after the date that is three months after the date of

mailing of the final rejection, and ended May 12, 2008, the date the Notice of Appeal was filed.

The correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred ninety-seven (397) days (435 - 38).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTA Calculations for Application: 10/941150			
Application Filing Date:	09/15/2004	PTO Delay (PTO):	471
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	36
Post-Issue Petitions:	0	Total PTA (days):	397
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	01/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
86	07/31/2008	MAIL NOTICE OF ALLOWANCE			
85	07/30/2008	ISSUE REVISION COMPLETED			
84	07/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
83	07/30/2008	DOCUMENT VERIFICATION			
82	07/29/2008	EXAMINER'S AMENDMENT COMMUNICATION			
81	07/29/2008	NOTICE OF ALLOWABILITY			
80	07/24/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
79	07/23/2008	DATE FORWARDED TO EXAMINER			
78	07/02/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
77	05/09/2008	MISCELLANEOUS INCOMING LETTER			
76	06/03/2008	MAIL ADVISORY ACTION (PTOL - 303)			
75	05/30/2008	ADVISORY ACTION (PTOL-303)			
74	05/20/2008	DATE FORWARDED TO EXAMINER			
73	05/12/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
72	05/12/2008	NOTICE OF APPEAL FILED			
71	05/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
69	05/05/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
68	05/01/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	04/22/2008	MAIL ADVISORY ACTION (PTOL - 303)			
66	04/21/2008	ADVISORY ACTION (PTOL-303)			

65	04/14/2008	DATE FORWARDED TO EXAMINER			
64	04/03/2008	AMENDMENT AFTER FINAL REJECTION			
63	04/01/2008	MAIL ADVISORY ACTION (PTOL - 303)			
62	03/29/2008	ADVISORY ACTION (PTOL-303)			
61	03/20/2008	DATE FORWARDED TO EXAMINER			
60	03/13/2008	AMENDMENT AFTER FINAL REJECTION			
59	01/04/2008	MAIL FINAL REJECTION (PTOL - 326)			
58	01/03/2008	FINAL REJECTION			
57	11/09/2007	DATE FORWARDED TO EXAMINER			
56	11/06/2007	RESPONSE AFTER NON-FINAL ACTION			
55	08/22/2007	MAIL NON-FINAL REJECTION			
54	08/20/2007	NON-FINAL REJECTION			
53	07/09/2007	DATE FORWARDED TO EXAMINER			
52	07/03/2007	RESPONSE AFTER NON-FINAL ACTION			
51	04/04/2007	MAIL NOTICE OF WITHDRAWN ACTION			
50	04/04/2007	MAIL NON-FINAL REJECTION			
49	04/02/2007	NON-FINAL REJECTION			
48	04/02/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
47	03/25/2007	MISCELLANEOUS INCOMING LETTER			
46	09/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	03/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	03/06/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	03/01/2007	MAIL RESTRICTION REQUIREMENT	471		-1
42	02/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
41	02/15/2007	APPLICATION RETURN FROM OIPE			
40	02/15/2007	APPLICATION IS NOW COMPLETE			
39	01/29/2007	ADDITIONAL APPLICATION FILING FEES			
38	01/29/2007	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
37	02/06/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
36	01/10/2007	SEQUENCE ERRORS			
34	01/09/2007	ADDITIONAL APPLICATION FILING FEES			
		A SET OF SYMBOLS AND PROCEDURES,			

33	01/09/2007	PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
32	07/06/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
31	12/29/2006	APPLICATION RETURN TO OIPE			
30	11/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	09/13/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	09/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
27.7	09/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	09/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	09/15/2004	PRELIMINARY AMENDMENT			
25	07/06/2005	APPLICATION RETURN FROM OIPE			
24	07/06/2005	APPLICATION RETURN TO OIPE			
23	07/06/2005	APPLICATION RETURN FROM OIPE			
22	07/06/2005	APPLICATION IS NOW COMPLETE			
21	07/06/2005	APPLICATION RETURN TO OIPE			
20	07/05/2005	APPLICATION DISPATCHED FROM OIPE			
19	07/06/2005	APPLICATION IS NOW COMPLETE			
18	09/15/2004	ADDITIONAL APPLICATION FILING FEES			
17	06/09/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	06/09/2005	SEQUENCE ERRORS			
15	05/27/2005	ADDITIONAL APPLICATION FILING FEES		36	6
14	05/27/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
13	06/08/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
11	03/21/2005	ADDITIONAL APPLICATION FILING FEES			
10	03/21/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
9	03/21/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	03/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	04/01/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
6	01/21/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			

5	11/19/2004	CLEARED BY L&R (LARS)			
4	10/20/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/20/2004	CASE CLASSIFIED BY OIPE			
2	10/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Gregory W. Osterloth
Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

Mail Date: 04/21/2010

Applicant	: Reid Hayhow	: DECISION ON REQUEST FOR
Patent Number	: 7617503	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1425** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,169	09/14/2004	Frederick A. Pemer	200400856-1	8706

7590 04/18/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
PRABHAKHER, PRITHAM DAVID	
ART UNIT	**PAPER NUMBER**
2622	
NOTIFICATION DATE	**DELIVERY MODE**
04/18/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY 10941169
09/16/2004 FFANAEIA 00000061 082025
01 FC:1201 172.00 CR
03 FC:1202 234.00 CR

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OFFICE OF PETITIONS

In re Application of :
Sau-Hung Spence Leung, et al. :
Application No. 10/941,193 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. PCH0585USCNT2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 3, 2007. The Notice of Abandonment was mailed November 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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.

Note that the Request for Continued Examination filed herewith petition will not be considered because a RCE cannot be filed until such time as the Office action has been made final or prosecution is closed. The RCE is deemed unnecessary and the $810 RCE fee will be credited back to your deposit account.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Since the $1050 extension of time fee submitted on November 8, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1615 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

Pet. Dec.

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FEB 9 2005

In re Application of	:	
MURCIA.	:	
Serial Number: 10/941,202	:	PETITION UNDER
Filed: September 15, 2004	:	M.P.E.P.708.02 V
For: FUEL SOURCE AND METHOD OF FORMING	:	AND VI
SAME FROM BLENDING WASTEWATER	:	
CONTAMINANTS WITH BIOMASS LEFTOVERS	:	
CLEANSING WASTEWATER	:	

This is in response to the petition filed September 15, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

The petition is **GRANTED.**

R. Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Gibbons, Del Deo, Dolan, Griffinger & Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Randall Glenn Marsh	: DECISION ON REQUEST FOR
Patent Number	: 7666827	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,206	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEP 23 2008

In re Application of :
Sarvani Grande :
Application No. 10/941,220 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. 20334/0205843-US0 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw less than all attorneys appointed by customer number 50638 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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HOWARD HUGHES CENTER
6060 CENTER DR
TENTH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of :
John Raybuck :
Application No. 10/941,225 : DECISION ACCORDING STATUS
Filed: September 15, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 61581 :

This is in response to petition under 37 CFR 1.47(b), filed April 26, 2005.

The petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on September 15, 2004, without an executed oath or declaration. Accordingly, on November 4, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(b) and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a three month extension of time and included a Certificate of Mailing dated April 4, 2005. Accompanying the petition was a declaration signed by Joan B. Stafslien, listing the name, citizenship, and residence of nonsigning inventor John Raybuck.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; and (6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

On petition, Rule 47 applicant has established that Raybuck was forwarded the application papers and expressed his intent to not sign the declaration by returning the papers unsigned.

The petition and the declaration have been reviewed and found to be in compliance with 37 CFR 1.47(b) and 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known 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 Group Art Unit 3762 for docketing and examination in due course.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN RAYBUCK
1366 1/2 KELTON AVE
LOS ANGELES CA 90024
USA

COPY MAILED

JUN 2 9 2005

OFFICE OF PETITIONS

In re Application of :
John Raybuck :
Application No. 10/941,225 :
Filed: September 15, 2004 : LETTER
Title: Needle Free Blood Collection :
Device With Male Connector Valve :

Dear Mr. Raybuck:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Thomas A. Runk
Fulwider Patton Lee & Utecht LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
(210)824-5555

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Liberatore et al. :
Application No. 10/941,238 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. GYN-5028USANP :

This is a decision on the petition filed December 13, 2004, requesting that the above-identified application be accorded a filing date of September 15, 2004, rather than the presently accorded date of September 14, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on September 15, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV138489864US showing an incorrect handwritten "date-in" of "September 14, 2004." The same Express Mail receipt number appears on the original "Patent Application Transmittal Letter," which includes the Express Mail label number. The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated September 15, 2004 on the cover page for the application papers. Additionally, applicant has submitted copy of the Track & Confirm record showing that the package in question was accepted on September 15, 2004, at 4:22 p.m. in Highland Park, NJ.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on September 15, 2004. Accordingly, the instant application is entitled to a filing date of September 15, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee. Accordingly, the $400 petition fee collected will be credited to petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of September 15, 2004, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 3732 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/10/2010

Applicant	: Ahmad R. Ansari	: DECISION ON REQUEST FOR
Patent Number	: 7624209	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/941,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **491** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEWIS RICE & FINGERSH LC
ATTN: BOX IP DEPT.
500 NORTH BROADWAY, SUITE 2000
ST. LOUIS, MO 63102

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
James J. Strohmeyer et al :
Application No. 10/941,273 : DECISION GRANTING PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2/1136US(1) :

This is a decision on the petition, filed December 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 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 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due 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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John P. Ward
Blakely, Sokoloff, Taylor & Zafman, LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Wesley T. Chan, et. al. :
Application No. 10/941,274 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. 7171.P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed on June 19, 2008. A Notice of Abandonment was mailed February 4, 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; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously submitted amendment.

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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:
James S. Simon	: DECISION ON PETITION TO
Application No. 10/941,275	: WITHDRAW FROM RECORD
Filed: September 14, 2004	:
Attorney Docket No. 217042001701	:

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 25, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that Charles D. Holland and all the attorneys/agents of record have been revoked by the applicant of the patent application in a new power of attorney filed on November 10, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Thomas M. Freiburger
P O Box 1026
Tiburon, CA 94920

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THOMAS M. FREIBURGER
P O BOX 1026
TIBURON, CA 94920

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JUN 05 2006
OFFICE OF PETITIONS

In re Application of	:	
James S. Simon	:	
Application No. 10/941,275	:	DECISION GRANTING PETITION
Filed: September 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 780P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 14, 2005.

The rule at 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement appearing in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply/amendment to the Office action of September 13, 2005; (2) the $750 petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 13, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3739 for appropriate action in due course on the reply received April 18, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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SEP 25 2008

In re Application of	:	
Yang et al.	:	
Application No.: 10/941286	:	DECISION ON
Filing or 371(c) Date: 09/15/2004	:	PETITION
Attorney Docket Number: 55600US008	:	

This is a decision in response to the "Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment No Fee Required," filed August 25, 2008. Applicant files the petition and asserts non-receipt of an Office action.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Responseive RCE Amendment, mailed November 20, 2007. A Notice of Abandonment was mailed July 17, 2008.

Office records

A review of Office records reveals that the file does not contain a copy of a Notice, mailed November 20, 2007. However, in an Interview Summary, the Examiner filed on July 3, 2008, the Examiner noted that Applicant stated that the Notice was not received, and agreed that since the response time had passed, the case would become abandoned, and a petition would be filed.

Petition under 37 CFR 1.181

Applicant files the instant petition and asserts that the Notice of Non-Responseive RCE Amendment was not received. In support of this assertion, Applicant files the Affidavit of Colene H. Bank, and the "Prosecution History" from the 3M Docket for this case. Applicant also notes that the USPTO File Wrapper History shows no letter mailed on November 20, 2007.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c).

Analysis

A review of the petition reveals that Applicant has not included a copy of the master docket for the firm. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 33427
ST. PAUL MN 55133-3427

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JAN 09 2009

In re Application of	:	
Yang et al.	:	
Application No.: 10/941286	:	DECISION ON
Filing or 371(c) Date: 09/15/2004	:	PETITION
Attorney Docket Number: 55600US008	:	

This is a decision in response to the "Renewed Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment No Fee Required," filed November 25, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Responseive RCE Amendment, mailed November 20, 2007. A Notice of Abandonment was mailed July 17, 2008.

Office records

A review of Office records reveals that the file does not contain a copy of a Notice, mailed November 20, 2007. However, in an Interview Summary, the Examiner filed on July 3, 2008, the Examiner noted that Applicant stated that the Notice was not received, and agreed that since the response time had passed, the case would become abandoned, and a petition would be filed.

The August 25, 2008 Petition under 37 CFR 1.181

Applicant filed a petition on August 25, 2008, wherein Applicant asserted that the Notice of Non-Responseive RCE Amendment was not received. In support of this assertion, Applicant filed the Affidavit of Colene H. Bank, and the "Prosecution History" from the 3M Docket for this case. Applicant also noted that the USPTO File Wrapper History shows no letter mailed on November 20, 2007.

A review of the petition revealed that Applicant had not included a copy of the master docket for the firm. The petition was dismissed without prejudice. Applicant was advised to file a renewed petition and include a copy of the master docket for the firm.

With the present renewed 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 Technology Center Art Unit 1794 for re-mailing of the Notice of Non-Responsive RCE Amendment, and for re-setting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
James N. Heron et al. :
Application No. 10/941,289 : DECISION ON PETITION
Filed: September 9, 2004 : TO WITHDRAW
Attorney Docket No. 0274.02-5240.1US (U-3180) : 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 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 Allen C. Turner on behalf of all attorneys associated with customer number 24247. All attorneys/agents associated with customer number 24247 have been withdrawn.

There are no outstanding office actions 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 the first signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: James N. Herron
2965 South Plateau Drive
Salt Lake City, UT 84109

cc: Needle & Rosenberg
999 Peachtree Street
Suite 1000
Atlanta, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/941,289	09/09/2004	James N. Herron	0274.02-5240.1US (U-3180)

CONFIRMATION NO. 3920

OC000000025656126

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 09/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

- 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.

Kimberly Inabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/941,289	HERRON ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL			CROSS REFERENCE(S)						
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	6	435	91.1	91.2					
INTERNATIONAL CLASSIFICATION		536	23.1	24.3	24.33	25.3	25.32		
C 12 Q 1/68									
C 12 P 19/34									
C 07 H 21/02									
C 07 H 21/04									
C 07 H 21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 7/16/2010 (Primary Examiner) (Date)	Total Claims Allowed: 8	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181
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	3		33		63		93		123		153		183
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3	5		35		65		95		125		155		185
4	6		36		66		96		126		156		186
	7		37		67		97		127		157		187
5	8		38		68		98		128		158		188
6	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
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JJGJr: 01-06

Paper No: __

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of :
Samsky, et al. :
Application No. 10/941,306 : DECISION
Filed: 15 September, 2004 :
Attorney Docket No.: 03286.0001U1 :

This is a decision on the petition, filed 11 October, 2005, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country or otherwise requiring publication on 11 August, 2005 (as indicated in a telephone call with Petitioner's office on 26 January, 2006). Moreover, Petitioner submitted the instant petition (with recision request) 11 October, 2005, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §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 6 April, 2006 (previously mailed), accompanies this decision.

This application is being released to Technology Center 3600 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL E. SELLERS
GABLE & GOTWALS
10TH FLOOR
100 W. 5TH STREET
TULSA OK 74103

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OFFICE OF PETITIONS

In re Application of :

SCHUMAIER, Daniel R. :
Application No. 10/941,342 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **006380.00030** : 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 28, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer providing legal services, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LUEDEKA, NEELY & GRAHAM, P.C.**
P. O. BOX 1871
KNOXVILLE, TN 37901

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FEB - 9 2006

LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

In re application of
Evan Glasberg
Application No. 10/941,348
Filed: September 15, 2004
For: STATIONERY ACCESSORY SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on October 27, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 11/28/05

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2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of
Ing, Brown, Towert, Chamberlain, Zhang, Queenan, Kent, Graner, Flippance, Veljovic, and Brodrozic
Application No.: 10/941,366
Filed: September 14, 2004
Attorney Docket No: 2101080-991101
For: COLLABORATIVE INFORMATION SYSTEM FOR REAL ESTATE, BUILDING DESIGN, CONSTRUCTION AND FACILITY MANAGEMENT AND SIMILAR INDUSTRIES

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed April 18, 2005.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on September 14, 2004, without an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 5, 2004, requiring an executed oath or declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on April 18, 2005, with a request for an extension of time within the fourth month.

Petitioner has shown that inventor Gramer has constructively refused to join the application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MAR 14 2005

In re Application of	:	
Peter Bergus et al.	:	
Serial No. 10/941,368	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO MAKE SPECIAL
For: STORAGE DEVICE FOR COMPACT DISCS	:	

Applicant's petition, filed September 15, 2004, 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.

E. R. Kazenske, Director
Technology Center 3700

Mr. Peter Bergus
P.O. Box 6
White Marsh, MD 21162

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DUANE, MORRIS, LLP
3200 SOUTHWEST FREEWAY
SUITE 3150
HOUSTON TX 77027

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of :
Smith et al. :
Application No. 10/941,383 : DECISION ON PETITION
Filed: 15 September, 2005 :
Atty Docket No. D5407-243 :
:

This is in response to the petition under 37 CFR 1.47(a) filed on 28 September, 2005.

The petition is **DISMISSED AS MOOT**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/260,139, filed on 30 September, 2002, of which the instant filing is a divisional application. Furthermore, a copy of the decision, mailed on 27 May, 2003, granting a petition to accord § 1.47(a) status to prior application No. 10/260,139, has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. The petition fee is unnecessary and will be not be charged.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

After this decision is mailed, the application will be referred to Technology Center 3672 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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VALARIE B. ROSEN
CHOATE, HALL & STEWART
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :

ANDERSON, Daniel G. et al. :
Application No. 10/941,390 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **0492611-0584/MIT-10477** : 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 13, 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 Brenda Jarrell 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.

All future correspondence will be directed to the first named inventor Daniel Anderson at the address indicated below. There is an outstanding Office action mailed April 13, 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: **DANIEL G. ANDERSON**
270 BELKNAP STREET
FRAMINGHAM MA 01701

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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

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OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Chelba et al.	:	
Application No. 10/941,399	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. M61.12-0708	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before August 31, 2009, as required by the Notice of Allowability mailed May 29, 2009. Accordingly, the date of abandonment of this application is September 1, 2009. A Notice of Abandonment was mailed September 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 Corrected Drawings; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Further, it is noted that petitioner has submitted a "Request For Withdrawal Of Requirement For Corrected Drawing And Submission Of Corrected Drawings If The Drawing Correction Requirement is Maintained". However, since this request was not submitted within two months of the action complained of it is untimely.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
Joel GOULD, et al. :
Application No. 10/941,402 : DECISION GRANTING PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **07470-070001** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2176 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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JUL 11 2008

In re Application of :
Cragun :
Application No. 10/941,414 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. ROC920040081US1 :
For: TELEPHONY ANNOTATION SERVICES

This is a decision on the petition under 37 CFR 1.181, filed May 8, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed May 16, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on August 17, 2007 for failure to reply to the June 12, 2007 non-final Office action. A Notice of Abandonment was mailed on April 9, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an amendment was timely received in the Office on August 16, 2007. The undersigned finds this argument completely convincing, as the amendment is present in the application file.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the April 9, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file will be forwarded to Technology Center A.U. 2614 for consideration of the amendment filed on August 16, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: RANDOL W. READ
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD., SUITE 1500
HOUSTON TX 77056

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Paper No.

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of :
Paul David de Levita et al. :
Application No. 10/941,436 : ON APPLICATION FOR
Filed: September 15, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 10516.200-US :
Title: PREPARATION OF AN :
EDIBLE PRODUCT FROM DOUGH :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) - PRE-GRANT" filed May 21, 2009. Applicant requests that the determination of patent term adjustment be increased by four hundred fifty-four (454) days to eight hundred eighty-two (882) 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.

It is noted in passing that Applicant has miscalculated the period of Applicant delay. Specifically, a Notice to File Missing Parts of Nonprovisional Application was mailed on November 5, 2004, and a response was not received until February 9, 2005, which is three months and 4 days after the mailing of the notice. As such, this constitutes 4 days of Applicant delay. Applicants have asserted that this constitutes 35 days of Applicant delay, presumably because the notice set a two-month period for response, and a reply was not received until two months and 35 days after the mailing of the notice.

Applicant will note that 37 C.F.R. § 1.704(b) indicates, *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.
>
> Emphasis added.

As such, the period of reduction is measured from the three-month period of the date on which the notice or Office action was mailed, and is independent of the actual period for reply that is set by the notice. Put another way, the actual period for response that is set by the notice is irrelevant for the purposes of patent term adjustment.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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.

---

[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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Paul David de Levita	: DECISION ON REQUEST FOR
Patent Number	: 7575769	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **911** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Xavier Fasce et al :
Application No. 10/941,441 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 59881US002

This is a decision on the petition, filed October 16, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2833 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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Haruo Kogane	: DECISION ON REQUEST FOR
Patent Number	: 7649547	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
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COZEN O'CONNOR, P. C.
1900 MARKET STREET
PHILIADELPHIA PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Probal Banerjee	:	
Application No. 10/941,478	:	DECISION GRANTING
Filed: 14 September, 2004	:	PETITION
Atty Docket No. PBAN0001-100	:	

This is a decision in reference to the petition filed on 7 February, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above identified application be accorded a filing date of 14 September, 2004, with three (3) sheets of drawings as a part of the original disclosure.

The petition is **granted**.

The application was filed on 14 September, 2004. However, on 6 December, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings as required by 35 U.S.C. § 113. The filing date would be the date that the drawings were received. A two (2)-month period for reply was set. The Notice also indicated that the oath or declaration was unsigned.

In response, on 7 February, 2005, the present petition was filed, accompanied by a copy of three (3) sheets of drawings.

Petitioner asserts that the inadvertently omitted drawings were contained in prior provisional Application No. 60/503,211, the disclosure of which is hereby incorporated by reference.

A search of the official file reveals that the first sentence of the specification filed on 14 September, 2004, states "[t]his application claims priority benefit of U.S. Provisional Application Ser. No. 60/503,211, filed September 15, 2003, the entire content of which is incorporated by reference herein."

Based on petitioner's representation that the drawings which are described in the specification are a part of the disclosure of Application No. 60/503,211, filed on 15 September, 2003, it appears that the drawings were present in the Office on 14 September, 2004, albeit in the file of another application, *i.e.*, Application No. 60/503,211. Therefore, on petition, the application may be accorded the requested filing date.

In accepting this petition, the Office is construing the drawings filed with the present petition to be a copy of the application drawings filed in prior copending Application No. 60/503,211. Petitioners **must** inform the Office if this is an incorrect interpretation.

The petition is granted.

Office records will be corrected to show the filing date of the present application as 14 September, 2004.

However, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

The application will be processed and examined with a filing date of 14 September, 2004, using the application papers filed on that date and the copy of three (3) sheets of drawings supplied on 7 February, 2005, as a part of the original disclosure.

Of course, the primary examiner is expected to compare the drawings supplied on 7 February, 2005, to the disclosure of prior application No. 60/503,211 in order to verify that the drawings are, in fact, parts of the disclosure of the prior application.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 14 September, 2004, using the application papers filed on that date and the copy of three (3) sheets of drawings supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Harness, Dickey, & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, MO 63105

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Timothy Patrick Donley	:	
Application No. 10/941,482	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. 9233-000005US	:	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 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Elizabeth D. Odell 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 Timothy Patrick Donley at the address indicated below.

There is an outstanding Office mailed August 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Timothy Patrick Donley**
3113 Pearl Harbor
St. Ann, MO 63074

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
10/941,482	09/15/2004	Timothy Patrick Donley	9233-000005US

CONFIRMATION NO. 8531

28997
HARNESS, DICKEY, & PIERCE, P.L.C
7700 BONHOMME, STE 400
ST. LOUIS, MO 63105

POWER OF ATTORNEY NOTICE

Date Mailed: 12/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

DATE: 12/20/07 APPLICATION NUMBER: 10941482

DOC CODE: BXB DOC DATE: _____

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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BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO CA 94121-0459

In re Application of :
Bobette Margaret Hudson :
Application No. 10/941,498 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. HDSN01

This is regarding the communication titled, "Office Action Not Received", filed May 22, 2008. The communication will be treated as a the petition to withdraw the holding of abandonment

The petition is **DISMISSED**.

The application became abandoned on April 23, 2007, after no response was received to the Notice of Non-Compliant Amendment mailed March 22, 2007(copy enclosed), which set a shortened period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 23, 2007. A Notice of Abandonment was mailed May 16, 2008.

In the instant petition, petitioner maintains that the Notice of Non-Compliant Amendment was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner must make a statement that petitioner's records where searched, but the Office communication was not found. Petitioner must also provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. Petitioner may also file a copy of

any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64 and Notice of Non-Compliant Amendment (COPY)

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,498	09/14/2004	Bobette Margaret Hudson	HDSN01	8136

36297 7590 03/22/2007

BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO, CA 94121-0459

EXAMINER	
SWIATEK, ROBERT P	
ART UNIT	**PAPER NUMBER**
3643	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
30 DAYS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

COPY

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/941498	Applicant(s)	
	Examiner	Art Unit	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 3/9/7 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☑ 4. Amendments to the claims:
  - ☑ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment, an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

D. Bates — 571-272-6573

Legal Instruments Examiner (LIE), if applicable — Telephone No.

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO CA 94121-0459

In re Application of :
Bobette Margaret Hudson :
Application No. 10/941,498 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. HDSN01

This is regarding the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a) filed November 20, 2008.

The renewed petition is **DISMISSED**.

The application became abandoned on April 23, 2007, after no response was received to the Notice of Non-Compliant Amendment mailed March 22, 2007, which set a shortened period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 23, 2007. A Notice of Abandonment was mailed May 16, 2008.

In the instant petition, petitioner maintains that the Notice of Non-Compliant Amendment was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not

limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

It is noted that petitioners states that no paper records are maintained. It is feasible, however, that petitioner can provide a printout of relevant electronic notations and calendars that are maintained so as to corroborate petitioner's assertion that the Notice of Non-Compliant Amendment was not received. Petitioner is advised that it will not be possible to grant a petition to withdraw the holding of abandonment under these circumstances without some form of a docket record or entries.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO CA 94121-0459

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Bobette Margaret Hudson :
Application No. 10/941,498 :
Filed: September 14, 2004 :
Attorney Docket No. HDSN01

ON PETITION

This is regarding the petition under 37 CFR 1.137(b) filed February 18, 2009.

The petition is **GRANTED**.

The application became abandoned on April 23, 2007, after no response was received to the Notice of Non-Compliant Amendment mailed March 22, 2007, which set a shortened period for reply of one-month from its mailing date. No response was received within the allowable period, and the application became abandoned on April 23, 2007. A Notice of Abandonment was mailed May 16, 2008.

The amendment filed February 18, 2009, is noted.

The application file will be directed to Technology Center GAU 3684 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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AUG 0 8 2006

OFFICE OF PETITIONS

In re Application of Younger :
Application No. 10/941,499 : Decision on Petition
Filing Date: September 14, 2004 :
Attorney Docket No. ACCL0001D1 :

This is a decision on the petition under 37 CFR 1.181, filed April 26, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Allowability was mailed November 1, 2005. The Notice of Allowability required the submission of corrected drawings.

Petitioner contacted the examiner and the SPE stating the drawing requirement appeared to be an error. As a result, a Supplemental Notice of Allowability was mailed January 5, 2006. The Supplemental Notice of Allowability did not state corrected drawings were required.

A Notice of Abandonment was mailed March 28, 2006. The Notice stated the application was abandoned as a result of petitioner failing to file corrected drawings.

The overall facts lead to the conclusion the Supplemental Notice of Allowability was in essence a withdrawal of the requirement for new drawings. The requirement for new drawings was "withdrawn" prior to the expiration of the time period petitioner had to reply to the Notice. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 2 7 2006

OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427

In re Application of :
Xavier Fasce et al :
Application No. 10/941,506 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 60038US002 :

This is a decision on the petition, filed January 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 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 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Steven T. Ansell	: DECISION ON REQUEST FOR
Patent Number	: 7603563	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1344** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

SEP 15 2005

Blakely, Sokoloff, Taylor
& Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Joerg Schleicher
Application No. 10/941,510 : DECISION ON REQUEST
Filed: September 14, 2004 : FOR WITHDRAWAL OF
For: METHOD AND SYSTEM TO CREDIT : ATTORNEY
CARD PAYMENT TRANSACTIONS
INITIATED BY A MERCHANT

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B) above.

As to condition B) the reason "Discontinuation of the attorney/client relationship", does not correspond to any of the reasons set forth in 37 CFR 10.40 (b) or (c).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/dcg: 7/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF ROY ANDERSON
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of :
Jacob Y. Wong :
Application No. 10/941,513 : DECISION ON PETITION
Filed: September 15, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. RLA35.112 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 7, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

Amelia Au
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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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of :
Daniel E. Kogan, et. al. :
Application No. 10/941,549 : DECISION ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 50037.289US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2168 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian 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

February 2005

Garder Wynne Sewell LLP
Intellectual Property Section
3000 Thanksgiving Tower
1601 Elm St.
Dallas, TX 75201-4761

FEB 9 2005

In re Application of:
Reinhold Stumpfl
Serial No.: 10/941,580
Filed: September 15, 2004
Attorney Docket No.: 126391-1001

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed via facsimile transmission on February 4, 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 expieration 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 Steven E. Ross on behalf of all the attorneys/agents of record. A non-final Office action was mailed in connection with the above-mentioned application on December 14, 2204.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

There are no attorneys/agents of record at this time.

As requested, all future communications from the Office will be directed to the inventor, Mr. Heinz Ploechinger, at the address provided below, unless otherwise notified by applicant.

Any inquiries concerning this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

cc: Reinhold Stumpfl
AV Stumpfl GmbH
Mitterweg 46
Wallern, Austria A-4702
Air Mail

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER, LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
BRESLAW, Nigel :
Application No. 10/941,595 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **088245-1123** : 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 10, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY AND LARDNER, LLP** has been revoked and re-appointed by the assignee of the patent application on October 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FOLEY AND LARDNER, LLP**
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-149

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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BRINKS HOFER GILSON
& LIONE/ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR MI 48104

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Ptasienski, et al. :
Application No. 10/941,609 : DECISION
Filed: 15 September, 2004 :
Attorney Docket No. 13378-78 :

This is a decision on the petition filed on 29 August, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly following the filing of the Notice of Appeal and fee, on 16 January, 2009, with reply due absent an extension of time on or before 16 March, 2009.

The application went abandoned by operation of law after midnight 16 March, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 29 August, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Appeal Brief and fee and made the statement of unintentional delay.

The request and fee for extension of time following the expiration of the statutory period is not proper and the fee will be refunded.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3742 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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Attention: Kyle Eppele
Rockwell Collins Inc.
M/S 124-323
400 Collins Road NE
Cedar Rapids, IA 52498

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
Daniel L. Woodell et al. :
Application No. 10/941,616 : DECISION ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 04CR052/KE :

This is a decision on the petition under 37 CFR 1.137(b), filed, January 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before August 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2007. Accordingly, the date of abandonment of this application is August 22, 2007. A Notice of Abandonment was mailed on September 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

30 JAN 2007

Max Fogiel
44 Maple Court
Highland Park, N.J. 08904

In re Application of	:	
NAUMANN	:	
Application No.: 10/941,617	:	COMMUNICATION
Filed: September 15, 2004	:	
Attorney Docket No.: None	:	
For: GUIDE SYSTEMS FOR VARIABLE VALVE CONTROLLERS	:	

This communication is in response to applicant's "Request For Immediate Examination of PCT Application Under 35 U.S.C. 371" filed November 23, 2005.

Applicant is advised that the present application is a not a U.S. National stage application of PCT/EP03/03262. It was filed and properly processed as an application under 35 U.S.C. 111(a) on 15 September 2004. In addition, the 30-month deadline for filing PCT/EP03/03262 in the U.S. national stage expired on 04 October 2004. As such, it is not possible grant applicant's request to establish a 371 application at this time.

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Please direct future correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

24 JUL 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Max Fogel
44 Maple Court
Highland Park, NJ 08904

In re Application of	:	
NAUMANN	:	
U.S. Application No.: 10/941,617	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No.: None	:	UNDER 37 CFR 1.181
For: GUIDE SYSTEMS FOR VARIABLE VALVE CONTROLLERS	:	

This decision is in response to applicant's request for reconsideration filed 28 February 2007 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 30 January 2007, applicant was mailed a communication notifying applicant that the present application was considered a utility application under 35 U.S.C. 111(a) and that the thirty month time period for entering the U.S. National stage under 35 U.S.C. 371 had expired on 04 October 2004. Applicant was advised to consider filing a petition for revival pursuant to 37 CFR 1.137.

On 28 February 2007, applicant filed the present response submitting that the papers originally filed on 15 September 2004 constituted a U.S. National stage filing under 35 U.S.C. 371.

DISCUSSION

Applicant states that at the time of filing applicant provided payment of "the required PCT fees" as well as an inventor's declaration containing the PCT number, the PCT filing date and the claim of priority. In addition, applicant states that the return postcard stamped by the PTO indicates the filing of a "new PCT patent application." (It is noted that applicant has not included a copy of the stamped return postcard.) Applicant contends that pursuant to the Manual of Patent Examining Procedure (MPEP) section 1893.03, sufficient information was provided to the USPTO at the time of filing such that the papers should have been processed as a U.S. National stage application under 35 U.S.C. 371. A close reading of section 1893.03(a) shows that this is not so.

Section 1893.03(a) first states that applicant's initially deposited application must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. (See 37 CFR 1.495(g)). Applicant is then advised to use transmittal letter Form PTO-1390 when seeking to

enter the U.S. National stage as this form clearly indicates that the submission is under 35 U.S.C. 371. In the present case applicant did not use Form PTO-1390 nor did applicant's transmittal letter indicate that a filing under 35 U.S.C. 371 was intended.

Applicant therefore seeks relief from language in section 1893.03(a) which states that:

> [I]f the applicant files a U.S. national application and clearly identifies in the accompanying oath or declaration the specification to which it is directed by referring to a particular international application by PCT Application number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application, then the application will be accepted as submitted under 35 U.S.C. 371. **Merely claiming priority of an international (PCT) application in an oath or declaration will not serve to indicate a submission under 35 U.S.C. 371**. (Boldness added)

In the present case, applicant's declaration did not identify the specification to which it was directed by international application number, it merely identified the pct application as a foreign priority claim. As shown above, this is insufficient for the purposes of treating the application as a U.S. National stage application under 35 U.S.C. 371.

Applicant is again advised to consider the filing of a petition for revival under 37 CFR 1.137. Applicant is reminded that any petition to revive must contain payment of both the search and examination fees. Any further delay in filing the petition to revive may call into question the unintentional nature of the delay.

Alternatively, applicant may wish to consider filing a petition under 37 CFR 1.78 to add the claim of priority to the present application.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

0 6 NOV 2007

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

Max Fogel
44 Maple Court
Highland Park, NJ 08904

In re Application of
NAUMANN
Application No. 10/941,617
Filed: September 15, 2004
Attorney Docket No. None

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the petition under 37 CFR 1.78, filed 13 August 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed international 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 PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

Specifically, applicant has not provided a proper reference to the previously filed international

application[1]; nor has applicant has not included 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.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) complete with 1) an amendment under 37 CFR 1.121 or application data sheet (37 CFR 1.76) containing the required reference and 2) a statement of unintentional delay 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 Derek A. Putonen at (571) 272-3294.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

11/06/2007 SHASHE1K 00000002 061444 10941617
01 FC:1454 1370.00 DA

[1]See Manual of Patent Examining Procedure (MPEP) 1895. A proper reference would be, for example, "The present application is a continuation application of international application number PCT/EP03/03262 having an international filing date of 28 March 2003."

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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24 JAN 2008

Max Fogel
44 Maple Court
Highland Park, NJ 08904

In re Application of
NAUMANN
Application No. 10/941,617
Filed: September 15, 2004
Attorney Docket No. None

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 20 November 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii);

(2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78 that the entire period of delay was unintentional and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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 application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3748 for appropriate action on the amendment filed 20 November 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365 (c) to the prior-filed international application.

Boris Milef
Senior 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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/941,617	09/15/2004	3748	770		20	3

CONFIRMATION NO. 7722

Dr. Max Fogiel
44 Maple Court
Highland Park, NJ 08904

CORRECTED FILING RECEIPT

Date Mailed: 01/24/2008

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)

Herbert Naumann, Elmshorn, GERMANY;

Power of Attorney:
Max Fogiel--19170

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/03262 03/28/2003

Foreign Applications
GERMANY 102 14 802.3 04/04/2002

If Required, Foreign Filing License Granted: 11/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/941,617**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Guide systems for variable valve controller

Preliminary Class

123

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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AUG 29 2008

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

In re Patent No. 7,148,456 :
Issued: December 12, 2006 :
Application No. 10/941,625 : NOTICE
Filed: September 15, 2004 :
Atty Docket No. 4514-044407 :

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 the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FEB 09 2006

OFFICE OF PETITIONS

NICK A. NICHOLS
P.O. BOX 16399
SUGARLAND TX 77496-6399

In re Application of	:	
Stuart J. Williams et al	:	
Application No. 10/941,641	:	DECISION GRANTING PETITION
Filed: September 14, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. WILL/501US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed November 4, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 5, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Stephen B. Bailey	: DECISION ON REQUEST FOR
Patent Number	: 7640664	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/941,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of :

MORAGNE, Jonathan D. et al. :
Application No. 10/941,652 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **10248-2U2** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 02, 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).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THOMAS A. BASMAJIAN, CEO**
ZEPHYR MEDIA, INC.
32 WEST GREENHILL ROAD
BROOMALL, PA 90008-2941

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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AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET
SUITE 2200
PHILADELPHIA, PA 19103-7013

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NOV 21 2007

OFFICE OF PETITIONS

In re Application of :

MORANGE, JONATHAN D. :
Application No. 10/941,652 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **10248-2U2** : 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 25, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Clark Jablon 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 correspondence address of record has been changed and the new correspondence address is the address indicated below. There is an outstanding Office action mailed July 30, 2007 that requires a reply from 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: **THOMAS A. BASMAJIAN, CEO**
ZEPHYR MEDIA, INC.
32 WEST GREENHILL ROAD
BROOMALL, PA 19008-2941

UNITED STATES PATENT AND TRADEMARK OFFICE

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THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE, CA 95134

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Jae C. Schwartz	:	
Application No. 10/941,653	:	DECISION GRANTING PETITION
Filed: September 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1028US	:	

This is a decision on the petition, filed June 14, 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 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2881 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
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City UT 84145

11/6/07

In re Application of:
Knapp, Christopher J.
Serial No. 10/941,662
Filed: Sep. 15, 2004
Docket: 12736.3
Title: ATTACHMENT FOR PORTABLE ELECTRONIC DEVICES AND METHODS FOR USING THE SAME

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Sep. 6, 2007 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Jun. 6, 2007.

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 Jun. 6, 2007 is hereby withdrawn. The examiner has been instructed to enter the amendment filed on Sep. 9, 2007 and issue 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 or Marc Jimenez, Training Quality Assurance Specialist, at (571)-272-4530.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,662	09/15/2004	Christopher J. Knapp	12736.3	9033

7590 01/26/2010

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City, UT 84145

EXAMINER	
LARSON, JUSTIN MATTHEW	
ART UNIT	PAPER NUMBER
3782	

MAIL DATE	DELIVERY MODE
01/26/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. Box 45120
Salt Lake City UT 84145

In re Application of:
KNAPP, CHRISTOPHER J.
Serial No.: 10/941,662
Filed: Sep. 15, 2004
Docket: 12736.3
Title: ATTACHMENT FOR PORTABLE ELECTRONIC DEVICES AND METHODS FOR USING THE SAME

DECISION ON PETITION

This is a decision on the petition received on January 21, 2010, seeking to suspend Office action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The requisite $200.00 petition fee has been paid.

The petition is dismissed.

On January 21, 2010, petitioner filed the current petition to suspend office action in order to obtain additional evidence to rebut the examiner's holding of deficient Affidavit under Rule 132 filed on April 13, 2009/. This reason for a six-month suspension of action is not convincing and could not justify further delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Petitioner must outline where he presently stands after the non-final Office action mailed on June 12, 2009. Accordingly, petitioner has failed to establish good and sufficient reasons to further delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action in response to the applicant's amendment filed on December 14, 2009.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3782 for preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALNYLAM/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

JUN 2 2 2010

OFFICE OF PETITIONS

In re Application of :
HANS-PETER VORNLOCHER :
Application No. 10/941,663 : LETTER REGARDING
Filed: September 15, 2004 : PATENT TERM ADJUSTMENT
Docket No. 26421-15799 US :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed February 17, 2010. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from thirty-six (36) days to one hundred six (106) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred six (106) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On November 25, 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 thirty-six (36) days.

Applicant asserts that the Office erroneously doubled counted applicant's delay of 70 days for the period beginning on December 6, 2008 and ending on February 13, 2009.

Upon a review of the record, the Office concurs with applicant. It has been determined that due to an error on the part of the USPTO, the Office erroneously made a duplicate entry of the 70 days of reduction under 37 CFR 1.704(c)(8) for the filing of the supplemental paper on February 13, 2009. That is, the Office incorrectly assessed applicant a reduction of 140 days, instead of 70 days, for the period beginning on December 6, 2008 and ending on February 13, 2009.

This Office error has been corrected. No fee is required for this correction. Accordingly, the Office will refund the $200.00 fee paid on February 17, 2010, in due course.

Applicant is 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 applicant will be notified in the Issue Notification letter that is mailed to applicant 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 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 REVISED PAIR Screen

Day : Monday
Date: 6/21/2010

PALM INTRANET

Time: 07:25:06

PTA Calculations for Application: 10/941663			
Application Filing Date:	09/15/2004	PTO Delay (PTO):	337
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	301
Post-Issue Petitions:	0	Total PTA (days):	106
PTO Delay Adjustment:	70		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
163	06/21/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	70		
153	11/25/2009	MAIL NOTICE OF ALLOWANCE			
152	11/20/2009	ISSUE REVISION COMPLETED			
151	11/20/2009	DOCUMENT VERIFICATION			
150	11/20/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
149	11/20/2009	NOTICE OF ALLOWABILITY			
148	10/22/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
147	10/09/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
146	10/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
143	10/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
142	10/14/2009	DATE FORWARDED TO EXAMINER			
141	10/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
140	10/14/2009	DISPOSAL FOR A RCE / CPA / R129			
139	10/09/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
138	10/09/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
137	08/05/2009	EMAIL NOTIFICATION			
136	08/05/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
135	08/04/2009	CORRESPONDENCE ADDRESS CHANGE			
134	07/31/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
133	07/13/2009	EXPORT TO INITIAL DATA CAPTURE			

132	07/14/2009	ELECTRONIC REVIEW			
131	07/14/2009	EMAIL NOTIFICATION			
130	07/14/2009	EMAIL NOTIFICATION			
129	07/14/2009	MAIL EXAMINER'S AMENDMENT			
128	07/14/2009	MAIL NOTICE OF ALLOWANCE			
128	07/14/2009	MAIL NOTICE OF ALLOWANCE			
127	07/10/2009	ISSUE REVISION COMPLETED			
127	07/10/2009	ISSUE REVISION COMPLETED			
126	07/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
126	07/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
125	07/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
125	07/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
124	07/09/2009	DOCUMENT VERIFICATION			
124	07/09/2009	DOCUMENT VERIFICATION			
123	07/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
123	07/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
122	07/06/2009	NOTICE OF ALLOWABILITY			
122	07/06/2009	NOTICE OF ALLOWABILITY			
121	05/22/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
121	05/22/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
120	05/22/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
120	05/22/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
119	06/02/2009	DATE FORWARDED TO EXAMINER			
119	06/02/2009	DATE FORWARDED TO EXAMINER			
118	05/22/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
118	05/22/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
117	06/02/2009	DISPOSAL FOR A RCE / CPA / R129			
117	06/02/2009	DISPOSAL FOR A RCE / CPA / R129			
116	05/26/2009	FINISHED INITIAL DATA CAPTURE			
116	05/26/2009	FINISHED INITIAL DATA CAPTURE			

115	05/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
115	05/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
114	05/22/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
114	05/22/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
113	03/23/2009	EXPORT TO INITIAL DATA CAPTURE			
113	03/23/2009	EXPORT TO INITIAL DATA CAPTURE			
112	03/24/2009	ELECTRONIC REVIEW			
112	03/24/2009	ELECTRONIC REVIEW			
111	03/24/2009	EMAIL NOTIFICATION			
111	03/24/2009	EMAIL NOTIFICATION			
110	03/24/2009	MAIL NOTICE OF ALLOWANCE			
110	03/24/2009	MAIL NOTICE OF ALLOWANCE			
109	03/17/2009	ISSUE REVISION COMPLETED			
109	03/17/2009	ISSUE REVISION COMPLETED			
108	03/17/2009	DOCUMENT VERIFICATION			
108	03/17/2009	DOCUMENT VERIFICATION			
107	03/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
107	03/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
106	03/17/2009	CASE DOCKETED TO EXAMINER IN GAU			
106	03/17/2009	CASE DOCKETED TO EXAMINER IN GAU			
105	03/10/2009	NOTICE OF ALLOWABILITY			
105	03/10/2009	NOTICE OF ALLOWABILITY			
104	02/13/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		70	91
104	02/13/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		70	91
102	02/24/2009	DATE FORWARDED TO EXAMINER			
102	02/24/2009	DATE FORWARDED TO EXAMINER			
101	02/13/2009	SUPPLEMENTAL RESPONSE			
101	02/13/2009	SUPPLEMENTAL RESPONSE			
98	12/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	12/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	12/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

97	12/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
96	02/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
96	02/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	02/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	02/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	12/19/2008	DATE FORWARDED TO EXAMINER			
94	12/19/2008	DATE FORWARDED TO EXAMINER			
93	12/05/2008	RCE- AF PROCESSED			
93	12/05/2008	RCE- AF PROCESSED			
92	12/19/2008	DATE FORWARDED TO EXAMINER			
92	12/19/2008	DATE FORWARDED TO EXAMINER			
91	12/05/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
91	12/05/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
90	12/19/2008	DISPOSAL FOR A RCE / CPA / R129			
90	12/19/2008	DISPOSAL FOR A RCE / CPA / R129			
89	12/05/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
89	12/05/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
88	12/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	12/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	12/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	12/05/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
85	10/17/2008	EMAIL NOTIFICATION			
84	10/17/2008	MAIL ADVISORY ACTION (PTOL - 303)			
83	10/14/2008	ADVISORY ACTION (PTOL-303)			
82	06/26/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
81	09/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
80	10/06/2008	NOTICE OF APPEAL FILED		31	72

79	10/10/2008	DATE FORWARDED TO EXAMINER			
78	10/06/2008	AMENDMENT AFTER FINAL REJECTION			
77	10/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
76	09/16/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
75	09/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	06/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	06/26/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	06/05/2008	MAIL FINAL REJECTION (PTOL - 326)			
71	06/05/2008	FINAL REJECTION			
70	04/11/2008	DATE FORWARDED TO EXAMINER			
69	02/15/2008	RESPONSE AFTER NON-FINAL ACTION			
68	01/30/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
67	01/29/2008	CORRESPONDENCE ADDRESS CHANGE			
66	12/10/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
65	11/15/2007	MAIL NON-FINAL REJECTION			
64	11/10/2007	NON-FINAL REJECTION			
63	08/28/2007	DATE FORWARDED TO EXAMINER			
62	08/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	54
61	08/28/2007	DISPOSAL FOR A RCE / CPA / R129			
60	08/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	08/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
58	07/25/2007	MAIL ADVISORY ACTION (PTOL - 303)			
57	07/23/2007	ADVISORY ACTION (PTOL-303)			
56	07/17/2007	DATE FORWARDED TO EXAMINER			
55	07/13/2007	AMENDMENT AFTER FINAL REJECTION			
54	04/26/2007	MAIL FINAL REJECTION (PTOL - 326)			
53	04/25/2007	FINAL REJECTION			
52	02/22/2007	DATE FORWARDED TO EXAMINER			
51	02/08/2007	RESPONSE AFTER NON-FINAL ACTION			
50	01/30/2007	MAIL NON-FINAL REJECTION			
49	01/26/2007	NON-FINAL REJECTION			

48	09/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	02/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	04/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	11/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	11/24/2006	REFERENCE CAPTURE ON IDS			
43.7	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	41
43	11/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	11/21/2006	DATE FORWARDED TO EXAMINER			
41	11/16/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
40	10/18/2006	MAIL RESTRICTION REQUIREMENT	337		-1
39	10/16/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
38	04/17/2006	REFERENCE CAPTURE ON IDS			
37.7	04/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	04/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
35.7	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	02/08/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	02/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	09/15/2004	REFERENCE CAPTURE ON IDS			
31	04/18/2005	PRELIMINARY AMENDMENT			
30.7	09/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	09/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	06/03/2005	CORRESPONDENCE ADDRESS CHANGE			
28	06/06/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
27	05/05/2005	APPLICATION RETURN FROM OIPE			
26	05/06/2005	APPLICATION IS NOW COMPLETE			

25	05/05/2005	APPLICATION RETURN TO OIPE			
24	05/05/2005	APPLICATION RETURN FROM OIPE			
23	05/06/2005	APPLICATION IS NOW COMPLETE			
22	05/05/2005	APPLICATION RETURN TO OIPE			
21	05/04/2005	APPLICATION RETURN FROM OIPE			
20	05/05/2005	APPLICATION IS NOW COMPLETE			
19	05/04/2005	APPLICATION RETURN TO OIPE			
18	05/04/2005	APPLICATION DISPATCHED FROM OIPE			
17	05/04/2005	APPLICATION IS NOW COMPLETE			
16	04/18/2005	ADDITIONAL APPLICATION FILING FEES		93	7
15	04/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
14	04/18/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
13	04/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	04/18/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
11	04/27/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
10	11/19/2004	CLEARED BY L&R (LARS)			
9	10/19/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
8	10/19/2004	CASE CLASSIFIED BY OIPE			
7	10/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	09/15/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	10/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/28/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	09/15/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Craig A. Slavin
Henricks Slavin & Holmes, LLP
840 Apollo Street, Suite 200
El Segundo, CA 92045

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
David K. Swanson, et al. :
Application No. 10/941,678 : DECISION GRANTING
Filed: September 14, 2004 : PETITION
Attorney Docket No. 015916-266x1 :

This is a decision on the petition filed November 29, 2004, requesting that the above-identified application be accorded a filing date of September 14, 2004, rather than the presently accorded date of September 15, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on September 14, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV026118245US, showing a "date-in" of September 14, 2004. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on September 14, 2004 and the filing date of the application will be accorded such.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of September 14, 2004.** Thereafter, the application file will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of
ZEHAVI, Ephraim
Application No. 10/941,698
Filed: September 14, 2004
Attorney Docket No. **PA349C3**

: 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 July 12, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on April 16, 2007, with the issue fee being due on or before July 16, 2007. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of April 16, 2007, has not been received. Therefore, the filing of a petition to withdraw this application is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

The matter is being referred to Technology Center Art Unit 2611.

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100108

DATE : January 8, 2010

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 7307719

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:

Approved.

SPE: /Gregory J. Toatley, Jr./ **Art Unit** 2877

UNITED STATES PATENT AND TRADEMARK OFFICE

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RIDOUT & MAYBEE LLP
225 KING STREET WEST
10TH FLOOR
TORONTO, ON M5V 3M2
CANADA

Mail Date: 05/04/2010

Applicant	: John Lumsden	: DECISION ON REQUEST FOR
Patent Number	: 7617498	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/941,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1431** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 04/20/2010

Applicant	: Francois Audet	: DECISION ON REQUEST FOR
Patent Number	: 7594259	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/941,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1067** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
www.uspto.gov

VINSON & ELKINS, LLP
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

COPY MAILED

FEB 29 2008

In re Application of	:	
Jacobo Bazbaz	:	
Application No. 10/941,728	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. POL780/4-007US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, "I am not prosecuting this application . . ." does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision will also be mailed to the first named signing inventor.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant or assignee.

There are no pending Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jacobo Bazbaz
5150 Hidalgo, Apt. 701
Houston, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Jacobo Bazbaz :
Application No. 10/941,728 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. POL780/4-007US : FROM RECORD
:

This is a decision on the Renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 4, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven R. Borgman, attorney with the firm of Vinson & Elkins, LLP.

Steven R. Borgman has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

COPY MAILED

SEP 25 2008

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/941,736
Filed: September 15, 2004
Attorney Docket No. XWHG-734

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 30, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to HOWARD J. GREENWALD P.C. has been revoked by the assignee of the patent application on May 30, 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 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
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MICHAEL J. NICKERSON
BASCH & NICKERSON, LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

MAILED

APR 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang, et al.	:	
Application No. 10/941,736	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. 1008 070 301 0251	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 5, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Basch & Nickerson, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. 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: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

UNITED STATES PATENT AND TRADEMARK OFFICE

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VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
Timothy C. Thompson :
Application No. 10/941,747 : DECISION ON PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PRO025/4-014US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Intermediate Application No. 10/355,259 was 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) 272-3208. 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 1643 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/941,747	09/15/2004	1643	460	PRO025/4-014US	13	2

CONFIRMATION NO. 7876

CORRECTED FILING RECEIPT

21586
VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON, TX 77002-6760

Date Mailed: 07/28/2008

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)

Timothy C. Thompson, Houston, TX;

Assignment For Published Patent Application

Baylor College of Medicine

Power of Attorney: The patent practitioners associated with Customer Number 21586

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/504,384 09/18/2003
and is a CIP of 10/355,259 01/31/2003 ABN
which claims benefit of 60/352,513 01/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/941,747**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods and compositions for diagnosis and monitoring of prostate cancer progression by detection of serum caveolin

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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DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Pozeng Kang et al. :
Application No. 10/941,753 : DECISION ACCORDING STATUS
Filed: September 15, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 5298-16201 :

This is in response to the petition filed January 6, 2005 (certificate of mail date, January 3, 2005) under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 15, 2004, naming Pozeng Kang and Gabriel Ming-Yu Li as joint inventors but without a signed declaration. Accordingly, on November 2, 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 executed only by joint inventor Li, late filing surcharge and filing fees were filed. The petition argues that after diligent efforts to locate Mr. Kang, petitioner has been unable to locate him.

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. Kang at his last known address and that it was undeliverable. The petition bears further proof that additional efforts to mail the application papers to Mr. Kang at yet another address were unsuccessful as that particular mail package was "unclaimed". Thus it is determined that diligent efforts were employed though unsuccessful to locate the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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 deposit account no. 50-3268 has been charged in the amount of $200.00 because effective November 22, 2004, the petition fee was increased to $200.00 rather than $130.00 as was indicated in the Notice mailed November 2, 2004. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to Technology Center 2816 and will be examined 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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APR 0 8 2005

OFFICE OF PETITIONS

POZENG KANG
175 CALVERT DRIVE, APT T102
SAN JOSE, CA 95014

In re Application of
Pozeng Kang et al.
Application No. 10/941,753
Filed: September 15, 2004
For: LOW VOLTAGE LOGIC CIRCUIT WITH SET AND/OR RESET FUNCTIONALITY

Dear Mr. Kang:

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:
DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

POZENG KANG
2727 ELLENDALE PLACE, APT 25
LOS ANGELES, CA 90007

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER & WILLIAMS PC
251 North Avenue West
2nd Floor
Westfield NJ 07090

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Louis W. BLACCO et al :
Application No. 10/941,769 : RESPONSE TO PETITION
Filed: September 15, 2004 :
Attorney Docket No. 9000/9 :

This is a response to the petition under 37 CFR 1.59(b), filed March 31, 2009, to expunge information from the above identified application.

The petition is dismissed.

Petitioner request the expungement of documents filed February 10, 2009, in a declaration submitted under 37 CFR 1.131. Specifically petitioner request that the office expunge the response to the restriction requirement.

However, the petition is premature since prosecution of the application has not been closed by way of the allowance of the application, the mailing of an Ex parte Quayle action, or the abandonment of the application. See MPEP 724.06. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material and the conditions related to the expungement of unintentionally submitted information, discussed as A-F in MPEP 724.05 II, are satisfied, the information will be removed from the official file.

After the mailing of a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment, the petition to expunge may be renewed by applicant(s) or applicant(s)' representative. No further fee is required for such a second submission of a petition under 37 CFR 1.59 to expunge information. **In addition, the requester is cautioned to renew the**

petition under 37 CFR 1.59 for reconsideration by the Office prior to the point at which the present file, or file claiming priority to the present file, is forwarded for issuance of the patent. This is to be done no later than immediately after the examiner has issued a Notice of Allowance, an Ex parte Quayle action or a Notice of Abandonment. A failure to timely renew the petition to expunge prior to the point at which the file is forwarded for issuance will result in the material being retained in the patented file and thus becoming open to the public.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ. 07090

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FEB 18 2010

In re Application of	:	
Louis W. BLACCO et al	:	CORRECTED
Application No. 10/941,769	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. 9000/9	:	

This is a decision on the petition under 37 CFR 1.59(b), filed March 31, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document entitled Response to Restriction Requirement, filed February 10, 2009, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant. In the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the information in application serial no. 10/941,769 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/941,773	09/15/2004	2856	920	220058.401C3	7	8	2

CONFIRMATION NO. 7858

00500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

UPDATED FILING RECEIPT

OC000000016013336

Date Mailed: 05/13/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Richard A. Carl, Rancho Pales Verdes, CA;

Assignment For Published Patent Application

PerkinElmer LAS, Inc., Boston, MA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/464,426 06/18/2003 PAT 6,810,757
which is a CON of 10/027,448 12/20/2001 PAT 6,622,578
which is a CON of 09/442,500 11/18/1999 PAT 6,415,669
which is a CIP of 09/056,880 04/09/1998 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/941,773

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

Title

Dispensing apparatus having means for loading pipette tips in a dispense head

Preliminary Class

073

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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CHERSKOV & FLAYNIK
THE CIVIC OPERA BUILDING
SUITE 1447
20 NORTH WACKER DRIVE
CHICAGO IL 60606

MAILED

OCT 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Pellin et al.	:	
Application No. 10/941,800	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. 0003/01394	:	

This is a decision on the petition, filed November 19, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely and properly respond to the Notice of Allowance of June 30, 2008, which set a three (3) month statutory period for reply. Accordingly, a reply was due on or before September 30, 2008. A Notice of Abandonment was mailed October 23, 2008.

Petitioner states that a timely reply was received by the USPTO on September 19, 2008. The previous correspondence included the Issue Fee Transmittal with payment of the $720.00 issue fee and the $300.00 publication fee. However, because the box on the Issue Fee Transmittal stating that the Applicant no longer claimed small entity status was checked, the funds remitted on September 19, 2008 were not sufficient. An additional $720.00 was necessary to fulfill payment of the $1440.00 large entity issue fee, as stated on the Notice of Abandonment.

Petitioner contends that the box was checked in error and that there was no change in the entity status. Petitioner further states that the abandonment was a result of USPTO error because the Office failed to contact the petitioner in a timely manner to resolve the situation. When the petitioner received a *courtesy* call from a USPTO employee at the beginning of October, petitioner believed the issue fee would be accepted under small entity status. However, as stated in 37 CFR 1.2,

> *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.*

Petitioner further states the abandonment was a USPTO error for failure to overcharge petitioner's deposit account, as discussed in MPEP 509.01. However, under 37 CFR 1.25(a), an amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.

Accordingly, the petition to withdraw the holding of abandonment under 37 CFR 1.181 cannot be accepted and is hereby dismissed.

Alternatively, petitioner states the abandonment was a result of unavoidable abandonment. However, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, the showing of record is sufficient to establish that the entire delay in filing the petition was unintentional.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3). The instant petition failed to include the properly unintentional delay statement as required by 37 CFR 1.137(b)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL J. CHERSKOV
300 NORTH STATE STREET
SUITE 5102
CHICAGO IL 60654

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Pellin et al.	:	
Application No. 10/941,800	:	ON PETITION
Filed: September 14, 2004	:	
Attorney Docket No. 0003/01394	:	

This is a decision on the renewed petition, filed October 15, 2009, which is being treated as a under 37 C.F.R. § 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

COPY MAILED

JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Clinton S. Hartman, et al. :
Application No. 10/941,801 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. RFSC-0016 : 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 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 no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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 Associate Power of Attorney filed with the petition on April 5, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

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: CHARLES E. PARRISH
R.F SAW INCORPORATED
900 ALPHA DRIVE
SUITE 400
RICHARDSON, TX 75081

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,809	09/16/2004	Hiroaki Takano	258945US6	8514

22850 7590 01/28/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
TSE, YOUNG TOI	
ART UNIT	**PAPER NUMBER**
2611	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,809	09/16/2004	Hiroaki Takano	258945US6	8514

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
TSE, YOUNG TOI	

ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/24/2008 0030049645

Credit Card Refund Total: $86.00

Am Exp..: XXXXXXXXXXX1005

Notice of Abandonment	Application No.	Applicant(s)	
	10/941,809	TAKANO, HIROAKI	
	Examiner	Art Unit	
	Tse, Young	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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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DEC 11 2009

STAAS & HALSEY LLP
Suite 700
1201 New York Avenue, N.W.,
Washington, D.C. 20005

In re Application of:	:	DECISION ON PETITION
Sun-Gi Hong et al	:	TO WITHDRAW FINALITY
Application No. 10/941,846	:	OF OFFICE ACTION
Filed: September 16, 2004	:	UNDER 37 CFR 1.181
For: APPARATUS AND METHOD FOR ESTIMATING A POSITION AND AN ORIENTATION OF A MOBILE LEGGED ROBOT	:	

This is in response to applicants' petition under 37 CFR 1.181 filed July 01, 2009 requesting withdrawal of the finality of the Office action mailed May 27, 2009 as being premature. The delay in responding to this petition is regretted.

The Petition is **DENIED.**

Applicant alleges that the final rejection mailed May 27, 2009 is premature because the examiner did not respond to a number of applicant's arguments traversing the examiner's rejections, and the examiner's rejections of the claims are not sufficiently detailed per MPEP 707.07 (f).

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment 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).

A review of the record reveals that examiner has responded to applicant's arguments as a whole and has shown specific teachings in the references relied upon to support examiner's position with respect to the language of the claims (see col. 2, lines 39-68; col. 3, lines 19-57; Figures 1-3 of Stephens US Patent No. 4,647,784). Stephens '784 discloses "the non-reflective portions

being detected during a bright current environment and the infrared reflective portions being detected during a dark current environment; ... and portions of the artificial mark that are detected during the bright and dark current environments, respectively". Applicant is kindly reminded of the responsibility of reviewing the cited reference(s) in their entirety, along with the Office action. The Final Office action includes rejections for all the claims and their limitations. There is no requirement that a rejection be structured in such a way as to separately identify each claim and its limitations, so long as each limitation of the claim is met by the rejection and the prior art. Furthermore, where differences of opinion concern the denial of patent claims because of prior art, and the questions thereby raised relate to the merits, then the appeal process has long been provided by statute. Rule 37 CFR 1.191(a) states that an applicant for a patent dissatisfied with the primary examiner's decision in the second or final rejection of his or her claims may appeal to the Board for review of the examiner's rejection. Thus, the application of the references to support the rejection of the claims by the examiner in this application is a matter appealable to the Board of Patent Appeals and Interferences.

Applicant may contend that examiner's response is incomplete or inadequate; however, the examiner has made a good faith effort to respond to applicant's arguments and to provide a new ground of rejection according to the newly amended claims.

Furthermore, MPEP 706.07(a) clearly states that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is not necessitated by applicant's amendment. A review of the record reveals that the examiner has issued a new ground of rejection since the new action now included at least a rejection made under 35 U.S.C. 112 first paragraph. The examiner clearly indicated that this new ground of rejection was necessitated by applicant's amendment. A review of applicant's amendment filed January 09, 2009 shows that significant amendments were made to all the independent claims 10, 15, 21, and 28 in addition to amendments to other claims that would necessitate a new ground of rejection.

Applicant alleges that Supervisory Patent Examiner Khoi Tran had indicated that the Final Office action was deficient in a phone conversation on June 29, 2009. This is not correct. Applicant is kindly directed to review the Interview summary mailed on July 02, 2009, which has clearly indicated that "Request for a supplemental Final Office Action and restarting period have been denied. Applicant has failed to specifically point out the error of the finality." Applicant also alleges that the Interview summary is an omission of premature final. This argument is not persuasive. The Interview summary is to further aid Applicant in reading the reference in its entirety. Again, there is no requirement that the rejection be structured in such a way as to separately identify each claim and its limitations, so long as each limitation of the claims are met by the rejection and the prior art. It is Applicant's responsibility to read the reference in its entirety.

For the foregoing reasons, the finality of the Office action dated May 27, 2009 is proper and no abuse of discretion or arbitrary or capricious action is evidenced and accordingly the petition to withdraw the finality of said Office action is denied.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Khoi Tran at (571) 272-6919.

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-3600

Kt/lm: 12/8/09

LM

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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Date : May 11, 2009

Patent No. :7510528
Inventor(s) :Lbaev Arthur Zhagafarovich, et al
Issued :March 31, 2009
Title :DEVICE AND METHOD FOR NONINVASIVE MEASURIN GGLUCOSE LEVELS IN :THE BLOOD

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

/Green/

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Mark M. Friedman
9003 Florin Way
Upper Marlboro, MD 20772

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/941,903	09/16/2004	Keiji Wakahara	2018-924	9419

23117 7590 10/23/2006

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
JENKINS, JERMAINE L	

ART UNIT	PAPER NUMBER
2855	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5F

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

In re Patent No. WAKAHARA ET AL.
Issue Date: 3/21/06
Appl No.: 10/941,903
Filed: September 16, 2004

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed 6/2/06. 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.

Edward Lefkowitz
Supervisory Patent Examiner
Art Unit 2855
Patent Examining Group 2800

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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APR 03 2008

OFFICE OF PETITIONS

In re Application of :
Shafi Al Dosari :
Application No. 10/941,927 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. 3348D-0003 :

This is a decision in response to the petition, filed November 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 a failure to reply in a timely manner to a non-final Office action mailed August 28, 2005. A Notice of Abandonment was mailed on January 11, 2006. On November 21, 2007, the present petition was filed.

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 two 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 28, 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 David E. Dougherty was counsel of record at the time of abandonment, he should explain why this application became abandoned while under the control of Dennison, Schultz Dougherty & Mac Donald and what efforts they made to further reply of itself and with whom this matter was discussed outside of Dennison, Schultz Dougherty & Mac Donald. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from any and all 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 two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Dennison, Schultz Dougherty & Mac Donald and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New

York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Shafi Al Dosari :
Application No. 10/941,927 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. 3348D-0003 :

This is a decision in response to the renewed petition, filed September 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 27, 2005. A Notice of Abandonment was mailed on January 11, 2006. On November 21, 2007, a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed April 3, 2008. In response, on September 25, 2008, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Accordingly, the petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2832 for appropriate action in the normal course of business on the reply received November 21, 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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OFFICE OF PETITIONS

In re Application of :
Shinichi Nakayama et al :
Application No. 10/941,960 :
Filed: September 16, 2004 :
Attorney Docket No. 520.38682CX3 :

ON PETITION

This is a decision on the petition, filed December 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2116 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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John J. Oskorep, Esq. LLC
980 North Michigan Avenue, Suite 1400
One Magnificent Mile Center
Chicago, IL 60611

Mail Date: 04/23/2010

Applicant	: Trevor Plestid	: DECISION ON REQUEST FOR
Patent Number	: 7623882	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/941,985	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Finnegan, Henderson, Farabow, Garrett & Dunner LLP
1300 I Street, NW
Washington, DC 20005

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Kazumi Nishinohara :
Application No. 10/942,032 :
Filed: September 16, 2004 :
Attorney Docket No. 04329.2119-02 :

DECISION ON PETITION

This is a decision on the petition filed November 22, 2004, requesting that the above-identified application be accorded a filing date of September 16, 2004, with Figures 8a-d and 22a-d described in the specification as part of the original disclosure.

On September 16, 2004, applicant filed the above-identified application. On November 4, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating, *inter alia*, that the application had been accorded a filing date of September 16, 2004, and advising applicant that Figures 8a-d and 22a-d appeared to have been omitted.

In response, on November 22, 2004, applicant filed, *inter alia*, the present petition and a copy of applicant's postcard receipt acknowledging receipt of 25 sheets of drawings (containing 86 figures) on September 16, 2004. Additionally, applicant submitted 25 sheets of drawings, which included Figures 8a-d and 22a-d.

Upon review of the record, Figures 8a-d and 22a-d, deposited on September 16, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 16, 2004, included Figures 8a-d and 22a-d, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 8a-d and 22a-d, was complete on filing and will be granted a filing date of September 16, 2004.

Accordingly, the petition is granted.

The requirement to submit Figures 8a-d and 22a-d, as set forth in the Notice to File Missing Parts, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 06-0916.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of September 16, 2004**, using Figures 8a-d and 22a-d submitted on November 22, 2004, and to mail a corrected filing receipt. The Office is also directed to correct the records to indicate 25 sheets of drawings were present on filing.

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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JUL 23 2008

In re Application of	:	
Changhong Li	:	
Application No. 10/942,038	:	DECISION GRANTING PETITION
Filed: September 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 59643.00417	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 17, 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 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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SILBER & FRIDMAN
1037 ROUTE 46 EAST
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CLIFTON NJ 07013

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OFFICE OF PETITIONS

In re Application of :
Rod Kirdhart :
Application No. 10/942,055 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. PSC-209M8 :

This is a decision on the petition filed March 19, 2007, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before January 4, 2007 as was required by the Notice of Allowance mailed October 4, 2006. This application therefore became abandoned on January 5, 2007. Accordingly, a Notice of Abandonment was mailed February 19, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that the Notice of was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notices were not received and submits copies of pages from the docketing system, wherein receipt of the Notices would have been entered, had they been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2618 for a remailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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190 CARONDELET PLAZA
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OFFICE OF PETITIONS

In re Application of :

MALISHCH, Timothy W. :
Application No. 10/942,069 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. **78625-007** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, applicant has new counsel does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ROBERT C. HALDIMAN, HUSCH & EPPENBERGER, LLC**
190 CARONDELET PLAZA
SUITE 600
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Gary Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7590942	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1073** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent No. 7,437,107	:	
Noriyuki Takuwa	:	DECISION DISMISSING
Application No. 10/942,110	:	REQUEST FOR
Issue Date: October 14, 2008	:	RECONSIDERATION OF
Filed: September 16, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705(d)
016887-1112	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed November 14, 2008. Patentee requests that the determination of patent term adjustment be corrected from two hundred ninety-seven (297) days to five hundred thirty-nine (539) 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 297 days.

BACKGROUND

This application was filed on September 16, 2004. On May 15, 2008, a request for continued examination (RCE) was filed. On June 13, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 297 days[1]. On October 14, 2008, the application matured into U.S. Patent No. 7,437,107, with a revised patent

[1] 386 days of Office delay was reduced by 89 days of applicant delay for a patent term adjustment of 297 days. No request for reconsideration of this initial determination was filed.

term adjustment of 297 days. The Office determined that the 242 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 386 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 386 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 89 days, the patent issued with a revised patent term adjustment of 297 (386 - 89) days.

On November 14, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term

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[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] As of the filing of the RCE on May 15, 2008, the application was pending three years and 242 days.

[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;

[5] A first Office action was not mailed until December 7, 2006, fourteen months and 386 days after the application filing date, September 16, 2004.

Adjustment is 539 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 628 (386 + 242) days as these periods do not occur on the same day. Further, given the applicant delay of 89 days, patentee asserts entitlement to 539 (628 - 89) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *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

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[6] 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.

> 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), September 16,

2004, and ending on the date of filing of a request for continued examination (RCE), May 15, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 386 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), 242 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 242 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 386 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 386 days and the 242 days is neither permitted nor warranted. 386 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of patent term adjustment, having considered the 242 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 297 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 Attorney Derek Woods, at (571) 272-3232.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20005

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Ying-Wen HUANG, et al :
Application No. 10/942,114 : DECISION ON PETITION
Filed: September 16, 2004 : TO WITHDRAW
Attorney Docket No. TAIW 678 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys of record were not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed January 14, 2008 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Yourist, Sheldon	:	
Application No. 10/942,134	:	DECISION ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. T4289HH-13137US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (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 3781 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 09222009

DATE : 09/21/09

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No.: 10942134 Patent No.: 7543705

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

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SAN DIEGO, CA 92101-7915

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Peter Jupp and : DECISION ON
Teresa Dugan-Mansfield :
Application No. 10/942,148 : PETITION
Filed: September 16, 2004 :
Attorney Docket No. 4763-101 :
:

This is a decision on the "PEITITON TO PROCEED WITH PROSECUTION WITHOUT THE SIGNATURE OF TERESA MARIE DUGAN-MANSFIELD UNDER 37 CFR § 1.47" filed June 17, 2005.

The petition is **GRANTED**.

The above-identified application was filed on September 16, 2004, with a declaration executed by joint inventor Jupp on behalf of himself and on behalf of non-signing inventor Dugan-Mansfield.

Prior to a Notice to File Missing Parts of Application requiring an oath or declaration and late surcharge being mailed, on June 17, 2005, applicant filed the instant petition. The late surcharge has been charged to Deposit Account No. 50-2635, as authorized. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Dugan-Mansfield refuses to join in the 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.

By declaration of facts of attorney Kleinke, and supporting documentary evidence, petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition includes an email response by inventor Dugan-Mansfield acknowledging receipt of the application papers by email, and indicating her intent not to sign the declaration. The petition includes payment of the petition fee. The last known address of inventor Dugan-Mansfield is deemed to be as set forth on the declaration.

The declaration filed September 16, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY 17 2005

TECHNOLOGY CENTER 2100

DUCKOR SPRADLING METZGER
401 WEST A STREET, SUITE 2400
SAN DIEGO CA 92101-7915

In re Application of: JUPP, et al.
Application No. 10/942,148
Filed: September 16, 2004
For: LIST ACQUISITION METHOD AND 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 03 February 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition fee of $130 has been charged to Deposit Account 502635.

The petition filed 03 February 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to specifically point out how the **language** of **each** of independent **claims** 1, 9, and 17 patentably distinguishes them from **each** of the **references**. Rather, the discussion simply states that the references do not teach "the use of a merge/purge list compiled for a previous list be used on a new subsequent list". However, this language does not appear in any of the independent claims.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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Bernard L. Kleinke
DUCKOR SPRADLING METZGER
401 West A Street, Suite 2400
San Diego, CA 92101-7915

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JAN 04 2007

Technology Center 2100

In re Application of: Jupp, et al.
Application No. 10/942,148
Filed: September 16, 2004
For: LIST ACQUISITION METHOD AND SYSTEM

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on April 24, 2006, requesting that the period for reply set forth in the Office communication (petition decision) mailed on May 17, 2005 be reset and the decision remailed. The status letter filed August 10, 2006 is hereby acknowledged.

The petition is **GRANTED**.

Petitioner provided a statement that the Office communication in question was not received at the correspondence address of record. In addition, Petitioner provided: a statement that the file (jacket) and docket records were searched; a copy of the docket records at the address of record; as well as reference to the docket record.

Accordingly, the Petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **REDATE** and **REMAIL** the petition decision, originally mailed May 17, 2005. Any request for reconsideration of the decision must be filed within two months of the date of remailing of the decision.

Any inquiry concerning this decision should be directed to Brian Johnson whose telephone is (571) 272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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In re Application of: JUPP, et al.
Application No. 10/942,148
Filed: September 16, 2004
For: LIST ACQUISITION METHOD AND 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 03 February 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition fee of $130 has been charged to Deposit Account 502635.

The petition filed 03 February 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to specifically point out how the language of each of independent claims 1, 9, and 17 patentably distinguishes them from each of the references. Rather, the discussion simply states that the references do not teach "the use of a merge/purge list compiled for a previous list be used on a new subsequent list". However, this language does not appear in any of the independent claims.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/942,172	09/16/2004	Carlos Simoes-Nunes	ARC-4662-569	9897

23117 7590 10/30/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
QAZI, SABIHA NAIM	
ART UNIT	**PAPER NUMBER**
1612	

MAIL DATE	DELIVERY MODE
10/30/2009	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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OCT 30 2009

Arthur Crawford
Nixon & Vandehye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of :
Simoes-Nunes et al :
Serial No.: 10/942,172 :Petition Decision
Filed: 16 September 2004 :
Attorney Docket No.: 4662-569

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 31 March 2009 and the renewed Petition under 27 C.F.R. 1.144 filed 9 September 2009. Both petitions were only recently forwarded to the deciding official. The resulting delay in acting upon the petition filed on 31 March 2009 is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 15 December 2005, 8 August 2006, 23 May 2007 and 24 January 2008, the examiner set forth Office actions which addressed all claims on their merits.

On 19 May 2008 applicants filed an amendment which cancelled all pending claims and added new claims 18-30.

On 19 August 2008, the examiner divided the new claims into 6 groups.

On 17 September 2008, Applicants elected Group V with traverse.

On 8 January 2009, the examiner considered the traversal and made the restriction requirement final. Claims 18-24 and 27-30 were withdrawn from consideration. Claims 25 and 26 were rejected.

On 31 March 2009, applicants filed a petition on under 37 CFR 1.144 for reconsideration of the restriction requirement. This paper was incorrectly indexed by the Office as a "response to election/restriction filed" instead of as a "petition" and was not brought to the deciding Official's attention. The resulting delay and inconvenience is regretted.

On 2 September 2009, the examiner set forth a non final Office action in which Claims 23-26 were
rejected and claims 18-22 and 27-30 were withdrawn from consideration.

On 9 September 2009, applicants responded to the Office action and filed this renewed Petition under 37 CFR 1.144 to request reconsideration of the restriction requirement.

DISCUSSION

The petitions and file history have been carefully considered.

First, it is noted that all pending petitions should be decided prior to the mailing of an Office action on the merits. For this reason alone, the non-final office action mailed 2 September 2009 was premature.

Second, concerning the restriction requirement, MPEP 803 sets for criteria for a serious burden when requiring restriction between patentably distinct inventions:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

In this instance, applicants have provided charts on pages 4-5 of their petition which clearly show that the pending claims all correspond to the claimed subject matter that the examiner has already concurrently examined in the first four Office actions on the merits. Clearly if the full scope of the claims has been examined, then it could not require a further serious or examination burden on the examiner to continue and conclude examination of the full scope of the claims.

DECISION

The petitions is **GRANTED** for the reasons set forth above.

The Office action mailed 2 September 2009 has been withdrawn.

The restriction required amongst Groups I-VI on 19 August 2008 is withdrawn

The application will be forwarded to the examiner for preparation of an Office action on all pending claims consistent with this decision.

Because the restriction requirement was made mid-prosecution and next Office has been withdrawn, in order to help ensure compact prosecution, the next Office action will be reviewed by the Supervisory Patent Examiner prior to mailing, see MPEP 707.02 second paragraph.

> "The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution."

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey M. Pelo :
Application No. 10/942,176 : DECISION GRANTING PETITION
Filed: September 15, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PELO :

This is a decision on the petition, filed April 6, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 21, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 29, 2005 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 1744 for examination in due course.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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OFFICE OF PETITIONS

THE BILICKI LAW FIRM, PC
1285 NORTH MAIN STREET
JAMESTOWN, NY 14701

In re Application of :
Christopher A. Palmerton et al. :
Application No. 10/942,186 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. 6918.14 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed June 26, 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 the above application has been revoked by the assignee of the patent application on July 11, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272- 4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: PHILLIPS LYTLE LLP
INTELLECTUAL PROPERTY GROUP
3400 HSBC CENTER
BUFFALO NY 14203-3509

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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Maguire, et al. :
Application No. 10/942,201 : DECISION ON PETITION
Filed: September 16, 2004 : TO WITHDRAW
Attorney Docket No. 3M01.1-010 : 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 31, 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, "this application has been transferred to another attorney", 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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: R Stevan Coursey
Coursey & Coursey, P.C.
1930 North Druid Hills Road
Suite 150
Atlanta, GA 30319

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OFFICE OF PETITIONS

In re Application of	:	
Donald J. Maguire, et al.	:	
Application No. 10/942,201	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. 3M01.1-010	:	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 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 Michelle E. Kandcer on behalf of all attorneys of record who are associated with customer No. 23506.

All attorneys/agents associated with the Customer Number 23506 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DONALD J. MAGUIRE
144 MOUNT MORIAH ROAD
DALLAS, GA 30132

cc: R. STEVEN COURSEY, ESQ.
COURSEY & COURSEY, P.C.
1930 NORTH DRUID HILLS ROAD
SUITE 150
ATLANTA, GA 30319

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/942,201	09/16/2004	Donald J. Maguire	3M01.1-010

CONFIRMATION NO. 2334

OC000000021271655

OC000000021271655

23506
GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2006.

- 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.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of
Christian Jesse
Application No. 10/942,204
Filed: September 16, 2004
Attorney Docket No: **67097-115; EH-10838**

ON PETITION

This is a decision on the petition filed May 15, 2007, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is**GRANTED**.

The application was held abandoned on December 26, 2006, for failure to file a timely response to the non-Final Office Action mailed September 22, 2006. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on April 4, 2007.

Petitioner asserts that a response to the non-Final Office Action was timely filed on December 21, 2006 and includes a copy of the response. Petitioner asserts, however that although the other identifiers were present on the response, an incorrect serial number was used in the communication of that response.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, petitioner is correct that other identifiable information was found to be on the papers filed as the response. As such, the papers were matched with the correct application and thus the response was timely. A review of the file reveals the response was received December 26, 2006 bearing a certificate of mail dated December 21, 2006 and has been matched with the instant application file.

Accordingly, the Notice of Abandonment mailed April 4, 2007 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 2121 for treatment of the response filed December 21, 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

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PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
P.O. BOX 2960
MINNEAPOLIS MN 55402-2960

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OFFICE OF PETITIONS

In re Application of :
Stenersen, et al. :
Application No.10/942,211 : ON PETITION
Filed: September 14, 2004 :
Attorney Docket No. **758.1212USC1** :

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed March 8, 2006. Accordingly, this application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on August 30, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the March 8, 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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/942,212	09/15/2004	2186	1212	42P20392	3	35	5

CONFIRMATION NO. 9663

CORRECTED FILING RECEIPT

OC000000014754879

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 12/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Damon Afualo, Beaverton, OR;

Power of Attorney: The patent practitioners associated with Customer Number **45209**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,212

Projected Publication Date: 03/16/2006

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and method for graphics memory controlling hub (GMCH) clocking support for dual television encoders

Preliminary Class

711

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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THOMAS F. LENIHAN
TEKTRONIX, INC.
14150 S. W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Robinson :
Application No. 10/942,213 : DECISION
Filed/Deposited: 15 September, 2004 :
Attorney Docket No. 7722-US :

This is a decision on the petition filed on 28 April, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 October, 2008, with reply due absent extension of time on or before 27 January, 2009.

The application went abandoned by operation of law after midnight 27 January, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 28 April, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply was in the form of an amendment.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2628 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OTC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Frederick A. Ware :
Application No. 10/942,225 :
Filed: September 15, 2004 :
Attorney Docket No. RBS2.P012

This is a decision on the petition, filed August 21, 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 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/02/2010

Applicant	: Jian Lin	: DECISION ON REQUEST FOR
Patent Number	: 7653164	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/942,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of :
Romantchikov :
Application No. 10/942,251 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. 11639/8 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2006.

The request is **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 assignee has failed to pay his financial obligation is a valid reason, but there is no verification that the assignee has intervened in this application.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Dr. Yuri Romantchikov
Gene Source, Inc.
12356 Quail Woods Drive
Germantown, MD 20874

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of
Yuri Romantchikov
Application No. 10/942,251
Filed: September 15, 2004
Attorney Docket No. 11639/8

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 3, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard L. Delucia on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed April 4, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. YURI ROMANTCHIVOK
575 EASTON AVENUE
SUITE 8N
SOMERSET, NJ 08873

cc: DR. YURI RONANTCHIKOV
GENE SOURCE, INC.
12356 QUAIL WOODS DRIVE
GERMANTOWN, MD 20874

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/942,251	09/15/2004	Yuri (Iouri) Romantchikov	11639/8

CONFIRMATION NO. 9713

OC000000023625283

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Date Mailed: 05/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ONE BROADWAY
NEW YORK NY 10004

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In re Application of
Yuri Romantchikov
Application No. 10/942,251
Filed: September 15, 2004
Attorney Docket No. 11639/8

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 3, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard L. Delucia on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed April 4, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. YURI ROMANTCHIVOK
575 EASTON AVENUE
SUITE 8N
SOMERSET, NJ 08873

cc: DR. YURI RONANTCHIKOV
GENE SOURCE, INC.
12356 QUAIL WOODS DRIVE
GERMANTOWN, MD 20874

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/942,251	09/15/2004	Yuri (Iouri) Romantchikov	11639/8

CONFIRMATION NO. 9713

OC000000023625283

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Date Mailed: 05/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Mark G. Erlander et al. :
Application No. 10/942,252 : DECISION ON PETITION
Filed: September 15, 2004 : TO WITHDRAW
Attorney Docket No. 022041-003210US : 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 21, 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 power of attorney was not given to the attorneys and agents associated with Customer Number 20350. Power of attorney was given to the attorneys and agents associated with Customer Number 41578. Resubmit your Request for Withdrawal as Attorney or Agent using the appropriate Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
for

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson**
225 Franklin Street, Suite 3100
Boston, MA 02110

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE, 16TH FLOOR
NEW YORK, NY 10001-7708

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OFFICE OF PETITIONS

In re Application of	:	
Youbao Peng et al	:	
Application No. 10/942,253	:	DECISION GRANTING PETITION
Filed: September 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04616/LH	:	

This is a decision on the petition, filed June 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 May 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2852 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\june10\942253.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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FENWICK & WEST
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of
Prabhu Ram et al
Application No. 10/942,285
Filed: September 15, 2004
Attorney Docket No. 61133-09253

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 4, 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 Brian M. Hoffman on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicants are 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 inventor at the first copies address below until otherwise properly notified by the applicants.

All future communications from the Office will continue to be directed to the named inventor at the below-listed address.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3626.

David Bucci
Petitions Examiner
Office of Petitions

cc: PRABHU RAM
13409 SE 52ND STREET
BELLEVUE, WA 98006

ANDRUS SCEALES STARKE & SAWALL
C/O JOSEPH D. KUBORN
100 EAST WISCONSIN AVE., SUITE 1100
MILWAUKEE, WI 53202

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Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Bhushan Khadpe et al.
Application No. 10/942,293
Filed: September 15, 2004
Attorney Docket No. 005306.P117

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2006.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Marina Portnova and all attorneys/agents of record has been revoked by the assignee of the patent application on September 5, 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: Campbell Stephenson, LLP
11401 Century Oaks Terrace
Bldg. H, Suite 250
Austin, TX 78758

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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

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OFFICE OF PETITIONS

In re Application of :
Wu, et al. :
Application No. 10/942,302 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 004.0131 :

This is a decision on the petition, filed March 5, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Novellus Systems, Inc. and the assignee's name was inadvertently not included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Novellus Systems, Inc..

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

Only a $130.00 processing fee is required for this request. A $400.00 Rule 183 waiver petition is not required. Petitioners' deposit account will be credited $270.00.

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/942,311	09/15/2004	1725	2360	PA2617US	5	76	8

CONFIRMATION NO. 9829

UPDATED FILING RECEIPT

OC000000015212516

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 02/17/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Steven F. Reiber, Rocklin, CA;

Power of Attorney: The patent practitioners associated with Customer Number **22830**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/650,169 08/27/2003
which is a CON of 10/036,579 12/31/2001 PAT 6,651,864
which claims benefit of 60/288,203 05/01/2001
and is a CIP of 09/514,454 02/25/2000 PAT 6,354,479
which claims benefit of 60/121,694 02/25/1999
This application 10/942,311
claims benefit of 60/503,267 09/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,311

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Flip chip bonding tool tip

Preliminary Class

228

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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MARK RODGERS
1590 SAN ROQUE ROAD
SANTA BARBARA, CA 93105

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OFFICE OF PETITIONS

In re Application of	:	
Erich Weerth	:	
Application No. 10/942,336	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0010405	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 18, 2005, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The invention is a blast resistant container for preventing explosive detonations in aircraft luggage and cargo holds, which materially contributes countering terrorism.

Petitioner submitted $130 with the petition on January 18, 2005. Since there is no petition fee required, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3727 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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C/O PORTFOLIO IP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Christian Chisholm :
Application No. 10/942,337 : DECISION ON PETITION
Filed: September 16, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. CSS0-001 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed August 23, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

It is noted that the submission filed August 23, 2006, also included therewith a petition to make special under Accelerated Examination as set forth in M.P.E.P. § 708.02, Section VIII. However, per the letter from Applicant filed August 31, 2006 that petition to make special under Accelerated Examination as set forth in M.P.E.P. § 708.02, Section VIII, stands revoked. The decision noted below therefore pertains only to the petition under 37 CFR 1.102(c) (2)(ii), filed August 23, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant invention is directed to an instrumented plunger for an oil or gas well and an associated method of operation. That the instant invention is directed to oil and gas well operation does not in itself satisfy the materiality standard, i.e., the petitioner has failed to explain how the claimed invention

contributes in a significant, substantial, or noticeable manner to category (A) or (B). Accordingly, any material contribution of the claimed invention to category (A) or (B) has not been persuasively shown.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

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 3676 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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APPLIED MEDICAL RESOURCES CORPORATION
22872 AVENIDA EMPRESA
RANCHO SANTA MARGARITA, CA 92688

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Wassim R. Ali-Ahmad et al :
Application No. 10/942,360 : DECISION GRANTING PETITION
Filed: September 16, 2004 : UNDER 37 CFR 1.10(c)
Attorney Docket No. 2961-US :

This is a decision on the petition, filed December 9, 2005, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of September 16, 2004, rather than the presently accorded date of September 15, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 16, 2004 pursuant to 37 CFR 1.10. In support, applicants have submitted a copy of Express Mail label No. EV 3841095090 US bearing a "date-in" of September 15, 2004 and a stamped date of September 16, 2004 from the Rancho Santa Margarita postal station. In further support of the fact that this application should be accorded the September 16, 2004 filing date, applicants have submitted a copy of the search results from a USPS Track & Confirm document which shows that the Express Mail package in question was accepted at the Rancho Santa Margarita postal station on September 16, 2004. The same Express Mail receipt number was placed on the original patent application transmittal letter found of record in the file.

In view of all the evidence of record, it is concluded that the application was deposited in Express Mail service on September 16, 2004. Accordingly, the instant application is entitled to a filing date of September 16, 2004, and has been so accorded.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of September 16, 2004 and mailing of a corrected Filing Receipt.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3380 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

COPY MAILED

MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Shoulian Dong et al. :
Application No. 10/942,364 : DECISION ON PETITION
Filed: September 16, 2004 :
Attorney Docket No.: :
3218.2B :
Title: COMPLEXITY MANAGEMENT AND :
ANAYLYSIS OF GENOMIC DATA :

This is a decision on the petition filed March 2, 2005, requesting that the above-identified application, including page 49 of the specification, be accorded a filing date of September 16, 2004 as part of the original disclosure.

The application was deposited on September 16, 2004. However, on December 20, 2004, 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, and advising applicants that page 49 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on March 2, 2005, applicants filed the present petition. The petition is further accompanied by a copy of page 49 of the specification, along with a one-month extension of time.

The petition is **DISMISSED AS UNTIMELY**.

Option III of the notice indicates that extensions of time are not available for responding to notices of omitted items. Petitioner's failure to have submitted this petition in a timely manner has resulted in the constructive election of this option, and an amendment to the specification to renumber the pages and cancel any reference to any material on page 49 of the specification will be required.

The application will maintain a filing date of September 16, 2004, using only those papers present on filing.

Page 49 of the specification, submitted with the present petition, will not be entered.

The one-month extension of time fee will be refunded to Petitioner's Deposit Account. The petition fee of $130 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

The application file is being returned to OIPE for further processing with a filing date of September 16, 2004, using only the original application papers filed on that date.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/942,374	09/15/2004	2654	770	022001-000402US	3	10	1

CONFIRMATION NO. 9474

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000014753845

Date Mailed: 12/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yulun Wang, Goleta, CA;
Darrin Uecker, Santa Barbara, CA;

Assignment For Published Patent Application

Computer Motion, Inc., Sunnyvale, CA

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/095,488 03/11/2002
which is a CON of 08/310,665 09/22/1994 PAT 6,463,361

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,374

Projected Publication Date: 02/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Speech interface for an automated endoscope system

Preliminary Class

704

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

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

MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Yulun WANG, et al.
Application No. 10/942,374
Filed: September 15, 2004
For: SPEECH INTERFACE FOR AN AUTOMATED ENDOSCOPE SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed January 3, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on April 13, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Frank Nguyen as the attorney(s) of record of the instant application. The Power of Attorney of April 13, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Frank Nguyen, et al.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

cc: Frank Nguyen
Patent Department
Intuitive Surgical, Inc.
950 Kifer Road
Sunnyvale, CA 94086

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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EI DUPONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUN 14 2006
OFFICE OF PETITIONS

In re Application of Adams et al. :
Application No. 10/942,401 : Decision on Petition
Filing Date: September 16, 2004 :
Attorney Docket No. FA0971USDIV :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed August 25, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on March 9, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1711 will be informed of the instant decision. The RCE and other papers filed with the petition will be entered and examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Bartorelli, et al. : DECISION ON PETITION
Application No. 10/942,403 :
Filed: September 16, 2004 :
Atty. Dkt. No.: 6135P2856 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 17, 2005 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed November 16, 2004. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed September 8, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 15 2006

OFFICE OF PETITIONS

HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

In re Application of :
Helmuth G. Bachmann : DECISION ON PETITION
Application No. 10/942,405 :
Filed: September 15, 2004 :
Attorney Docket No.: AGITATOR FOR MIXING HAIR COLORING DYE :

This is a decision on the petition under 37 CFR 1.137(a), filed January 10, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

The present petition was filed accompanied by the petition fee and a response to the November 3, 2004 Notice. Petitioner argues that an unavoidable circumstance on December 21, 2004 caused him to not be able to respond to the Notice mailed November 3, 2004. Specifically, petitioner argues that an unrecoverable crash to his hard drive destroyed all of his patent files and data.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8,

1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances,

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

While petitioner's request for revival of the application under the unavoidable standard of review indicates that his computer crashed, petitioner does not provide information as to what if any procedures have been taken to safeguard the system from being undermined and compromised again.

As a prudent party would have done, the petitioner should have taken adequate steps to prevent the issues that ultimately lead to the computer crash as well, a prudent party would have had a back-up system in the event such a computer breakdown occurred.

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and careful men, in relation to their most important business, to establish unavoidable delay, Pratt, supra.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay,

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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

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

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MAR 2 2 2006

HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

In re Application of :
Helmuth G. Bachmann : DECISION ON PETITION
Application No. 10/942,405 :
Filed: September 15, 2004 :
Attorney Docket No.: AGITATOR FOR MIXING :
HAIR COLORING DYE

This is a decision on the petition under 37 CFR 1.137(a), filed January 10, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

The present petition was filed accompanied by the petition fee and a response to the November 3, 2004 Notice. Petitioner argues that an unavoidable circumstance on December 21, 2004 caused him to not be able to respond to the Notice mailed November 3, 2004. Specifically, petitioner argues that an unrecoverable crash to his hard drive destroyed all of his patent files and data.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8,

Renewed Petition under 37 CFR 1.137(a)
Application/Control Number: 10/942,405

Helmuth G. Bachmann
1841 London Way
Salinas, CA 93906

March 22, 2006

Attn: Office of Petitions

Dear Patricia Faison-Ball,

In response to the petition dismissal, I would like to submit the following further details regarding the delay and prudent standards used to safeguard the integrity of the system which contained the patent files. Regular backups were maintained on floppy disk media after each and every major change of any patent file on the system. These details were not introduced in the first petition knowing this is standard practice as a former software engineer for over 25 years. After rebuilding the system (hardware) the backup floppy disk containing the final patent had an unrecoverable read error. An older backup along with the paper copy of the final patent was used to restore the original final patent onto the rebuilt system. This file recovery process did not contributed to the overall delay in the response to the corrections of the office action.

The unavoidable delay was due to an unexpected and unforeseen financial situation as a result of my unemployment and failure of the hard disk. I was unable to buy, reconstruct or use an unsecure public system to resubmit the claims on a separate sheet in response to the office action. Also, diligence was used in immediately responding to the Notice of Abandonment and following the instructions to petition directly to OIPE Customer Service by facsimile with the corrections. After fax submittals and calling the USPTO and OIPE Customer Service over 9 times during the 2 month response period, no one was able to discern a change in the filing status or determine if the fax responses were received. This continued with additional phone calls over several months after the 2 month response period and I was eventually informed that the fax number on the Notice of Abandonment (see attachment) was invalid. I was subsequently told to file a separate petition and not follow the instructions in the Notice of Abandonment or try to petition the OIPE.

I feel normal diligence was used, and is being used in maintaining the computer system in the event of a computer failure. The delay for the submission of corrections was the result of unforeseen financial problems and hard disk failure as mentioned in the original petition.

Please do not hesitate to contact me for further details regarding my unemployment and financial records. I can be reached during the day at my home phone number (831) 443-5859 if you have any questions.

Regards,

Helmuth G. Bachmann

Notice of Abandonment

This application is abandoned in view of applicant's failure to timely file a proper reply to the Office notice mailed on 11/03/04.

Petition to Withdraw the Holding of Abandonment

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 transmitted by facsimile directly to OIPE Customer Service at (703) 308-7751.

Petition to Revive an Abandoned Application

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(i); and
4. a terminal disclaimer if required by 37 CFR 1.137(d).

See MPEP § 711.03(c) and Form PTO/SB/61.

The above fax number is invalid.

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 Office of Petitions at (703) 305-9282.

Any questions regarding this notice should be directed to OIPE Customer Service at (703) 308-1202.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

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OFFICE OF PETITIONS

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HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

In re Application of
Helmuth G. Bachmann
Application No. 10/942,405
Filed: September 15, 2004
Attorney Docket No.: AGITATOR FOR MIXING HAIR COLORING DYE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 10, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

The present petition was filed accompanied by the petition fee and a response to the November 3, 2004 Notice. Petitioner argues that an unavoidable circumstance on December 21, 2004 caused him to not be able to respond to the Notice mailed November 3, 2004. Specifically, petitioner argues that an unrecoverable crash to his hard drive destroyed all of his patent files and data.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8,

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HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

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APR 25 2006

OFFICE OF PETITIONS

In re Application of :
Helmuth G. Bachmann : DECISION ON PETITION
Application No. 10/942,405 :
Filed: September 15, 2004 :
Attorney Docket No.: AGITATOR FOR MIXING :
HAIR COLORING DYE

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 22, 2006, to revive the above-identified application.

The renewed petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005. A petition was filed, accompanied by the petition fee and a response to the November 3, 2004 Notice. Petitioner argued that an unavoidable circumstance on December 21, 2004 caused him to not be able to respond to the Notice mailed November 3, 2004. Specifically, petitioner argued that an unrecoverable crash to his hard drive destroyed all of his patent files and data.

Comes now petitioner renewing his argument, adding also that due to an unexpected and unforseen financial situation, as a result of unemployment and failure of the hard disk, the response to the November 3, 2004 Notice was delayed.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of

a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition still lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts financial difficulties as a basis for unavoidable delay, specifically that he was unemployed. A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.[3] In order to establish unavoidable delay based on a financial situation, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in responding to the Notice unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial situation and why it impacted his ability to respond to the Notice.

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and careful men, in relation to their most important business, to establish unavoidable delay, Pratt, supra.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[4] 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)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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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HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

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In re Application of
Helmuth G. Bachmann
Application No. 10/942,405
Filed: September 15, 2004
Attorney Docket No.: AGITATOR FOR MIXING HAIR COLORING DYE

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 22, 2006, to revive the above-identified application.

The renewed petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on October 14, 2004, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005. A petition was filed, accompanied by the petition fee and a response to the November 3, 2004 Notice. Petitioner argued that an unavoidable circumstance on December 21, 2004 caused him to not be able to respond to the Notice mailed November 3, 2004. Specifically, petitioner argued that an unrecoverable crash to his hard drive destroyed all of his patent files and data.

Comes now petitioner renewing his argument, adding also that due to an unexpected and unforseen financial situation, as a result of unemployment and failure of the hard disk, the response to the November 3, 2004 Notice was delayed.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of

> a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition still lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts financial difficulties as a basis for unavoidable delay, specifically that he was unemployed. A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.[3] In order to establish unavoidable delay based on a financial situation, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in responding to the Notice unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial situation and why it impacted his ability to respond to the Notice.

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and careful men, in relation to their most important business, to establish unavoidable delay, Pratt, supra.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[4] 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)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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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HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Helmuth G. Bachmann : DECISION ON PETITION
Application No. 10/942,405 :
Filed: September 15, 2004 :
Attorney Docket No.: AGITATOR FOR MIXING HAIR COLORING DYE :

This is a decision on the second renewed petition under 37 CFR 1.137(a),[1] filed May 9, 2006, to revive the above-identified application.

The second renewed petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on January 4, 2005, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

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[1] A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

For clarification purposes, a review of the application history is warranted.

The Notice to File Corrected Application Papers mailed November 3, 2004 required the filing of replacement claims on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121 because, with the original papers filed, the description of invention continued onto the page with the claims.

No response to the Notice to File Corrected Application Papers was received during the period set for reply and thus the application became abandoned. The first response received was replacement claims and a petition to withdraw the holding of abandonment filed August 11, 2005. In that petition, petitioner made two arguments.

In the first argument petitioner claims to have mailed the response to the Notice on December 8, 2004 although petitioner concedes that he filed it without a post card receipt and as a consequence, there is no record of the response having been filed. Without proof of filing the holding of abandonment could not be withdrawn

Although not offered as a basis for why the abandonment should be withdrawn, petitioner's second argument avers that petitioner tried to fax in a copy of the response on July 19, 2005 but the fax number provided by the USPTO was inoperable. Purportedly, the July 19, 2005 submission contained the claim that the response had been timely mailed on December 8, 2004. We will only address this issue to note that the application had already become abandoned and the failure to reach the office at the correct fax number on July 19, 2005 was ancillary.

Subsequent to the filing of the Petition to Withdraw the Holding of Abandonment, on January 10, 2006, petitioner filed a petition to revive under 37 CFR 1.137(a) arguing that the delay in filing a response to the Notice to File Corrected Application Papers was unavoidable due to 1) his computer hard drive crashed on December 21, 2004 and 2) that petitioner did not have the funds to purchase a new computer system.

The petition to revive was dismissed in a decision mailed March 15, 2006 because petitioner had not provided to the satisfaction of the Commissioner that the delay was unavoidable and more specifically that any procedures had been taken to safeguard the system from being undermined and compromised again. A renewed petition filed March 27, 2006 was dismissed in a decision mailed April 26, 2006 because while petitioner asserted financial difficulties as a basis for unavoidable delay, he did not provide any evidence that would confirm his financial situation and why it impacted his ability to respond to the Notice.

With the instant petition, petitioner relies on evidence of his employment status, unemployed, and personal bank account to show that he was financially unable to purchase or repair his computer and thus was unable to timely file a response to the

Notice to File Corrected Application Papers mailed November 3, 2004.

In view of the fact that petitioner has argued that the response, which included replacement claims, was purportedly filed December 8, 2004 but can't be verified, and a re-submission of a copy of the response was attempted by facsimile transmission on July 19, 2005, we find the arguments concerning petitioner's financial status and the failure of his hard drive to be immaterial as it relates to his ability to file a timely response to the Notice to File Corrected Application Papers. It appears that replacement claims had been redrafted and submitted but that it can't be confirmed that they were filed within the time period set for reply.

The evidence provided don't seem to support the argument that an unrecoverable crash to petitioner's hard drive destroyed all of his patent files and data and that because he was unemployed and living on his wife's salary, that he was met with unavoidable delay.[2]

This petition still lacks items (3) above.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and

---

[2]**SHOWING OF UNAVOIDABLE DELAY**

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

[3]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

careful men, in relation to their most important business, to establish unavoidable delay, Pratt, supra.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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[4]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)).

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELMUTH G. BACHMANN
1841 LONDON WAY
SALINAS CA 93906

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Helmuth G. Bachmann : DECISION ON PETITION
Application No. 10/942,405 :
Filed: September 15, 2004 :
Attorney Docket No.: AGITATOR FOR MIXING :
HAIR COLORING DYE

This is a decision on the petition filed June 27, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 4, 2005, for failure to timely submit a response to the Notice to File Corrected Application Papers mailed November 3, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

The response to the November 3, 2004 was filed on March 15, 2005. However, 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)

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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)). any outstanding balance thereof.

was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

All other requirements for revival having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DTW Sep-08

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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SEP 12 2008

In re Application of :
McIntosh et al. :
Application Number: 10/942423 : DECISION ON PETITION
Filing Date: 09/16/2004 :
Attorney Docket Number: :
CA920040030US1 :

This is a decision on the petition filed on July 24, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 30, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 29, 2008, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on June 26, 2008.

Receipt of the issue and publication fees filed with the present petition is acknowledged.

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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 Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Shunguo Yan	: DECISION ON REQUEST FOR
Patent Number	: 7600027	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Raul A. Perez :
Application No. 10/942,433 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. TI-37839 :

This is a decision in response to the petition, filed January 21, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to A Notice of Non-Compliant Amendment mailed April 29, 2008. A Notice of Abandonment was mailed on November 14, 2008. In response, on January 21, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2817 for consideration of the response filed January 21, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/942,447	09/16/2004	1723	770	5804	7	18	2

CONFIRMATION NO. 9815

John E. Vick, Jr.
Legal Department, M-495
PO Box 1926
Spartanburg, SC 29304

CORRECTED FILING RECEIPT

OC000000016981336

Date Mailed: 09/09/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Philip T. Radford, Roebuck, SC;

Power of Attorney: The patent practitioners associated with Customer Number **25280**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,447

Projected Publication Date: 03/16/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for blending a colorant

Preliminary Class

366

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Kunal Mukerjee	: DECISION ON REQUEST FOR
Patent Number	: 7590179	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,458	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1030** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE
FEB 22 2005
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No.: EVG-017C1

APPLICANT(S):	Wallace, Jr.		
SERIAL NO.:	10/942,475	GROUP NO.:	1765
FILING DATE:	September 16, 2004	EXAMINER:	Not yet assigned
TITLE:	Method and Apparatus for Growing Multiple Crystalline Ribbons from a Single Crucible		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

Sir:

Pursuant to 37 C.F.R. § 1.102(c) and MPEP § 708.02 VI, Applicants hereby petition the Commissioner to accord the subject application "special" status, so that it may be advanced out of turn for immediate action. Applicants submit that the subject application should be made "special" because the invention will materially enhance the quality of the environment and/or materially contribute to the development and conservation of energy resources. In particular, one or more claims of the application relate to the development, improvement, and/or applications of crystalline ribbon that can be used in the formation of solar cells which convert light, a free and virtually inexhaustible energy resource, into electricity.

Applicants believe that no fee is due with this Petition and respectfully request that this Petition be granted.

Respectfully submitted,

Date: February 18, 2005
Reg. No.: 56,471

Tel. No.: (617) 526-9717
Fax No.: (617) 526-9899

Scott K. Witonsky
Agent for the Applicant
Proskauer Rose LLP
One International Place
14th Floor
Boston, MA 02110-2600

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR - 3 2005

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Zhang et al. :
Application No. 10/942,477 : DECISION ON PETITION
Filed: 16 September, 2004 :
Atty Docket No. 2003P14211 US01 :

This is a decision on the petition filed on 29 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 January, 2005, for failure to timely submit an executed oath or declaration and surcharge for its late filing in response to the Notice to File Missing Parts of Nonprovisional Application mailed on 30 November, 2004, which set a two (2) month shortened period for reply. No

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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)).

extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 July, 2005.

The present petition is accompanied by an executed declaration and the late-filing surcharge.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/21/2010

Applicant	: Li Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7653225	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

Mail Date: 04/20/2010

Applicant	: Ronald J. Sapolsky	: DECISION ON REQUEST FOR
Patent Number	: 7662559	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **640** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LADAS & PERRY LLP
224 S. MICHIGAN AVENUE
SUITE 1600
DETROIT, MI 606064

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Minoru KOMADA
Application No. 10/942,500
Filed: September 16, 2004
Attorney Docket No.: **37569-406700**

This is a decision on the petition filed October 3, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 3, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 4, 2006. Accordingly, a Notice of Abandonment was mailed on April 19, 2006.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 1773 for appropriate action on the amendment filed October 3, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO IL 60603-5803

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Kunal Mukerjee	: DECISION ON REQUEST FOR
Patent Number	: 7664177	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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DEC 15 2004

OFFICE OF THE DIRECTOR
TC 3600

Law Offices of Eric Karich
2807 St. Mark Dr.
Mansfield, TX 76063

In re application of
James K. Miansian et al
Application No. 10/942,511
Filed: September 16, 2004
For: WHEEL WITH CENTER SPINNER

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on September 16, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if

petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd:12/2/04

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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
10/942,523	09/15/2004	2863	770	CYPR-CD03094	5	20	3

CONFIRMATION NO. 2176

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

CORRECTED FILING RECEIPT

OC000000017496981

Date Mailed: 11/21/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Timothy Williams, Bellevue, WA;
Harold Kutz, Snoqualmie, WA;
Eric Blom, Lynnwood, WA;
Warren Snyder, Snohomish, WA;

Power of Attorney: The patent practitioners associated with Customer Number **45545**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/503,571 09/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,523

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and circuit for providing a system level reset function for an electronic device

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Kunal Mukerjee	: DECISION ON REQUEST FOR
Patent Number	: 7630438	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/942,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1259** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 Livermore National Security, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of
John F. Cooper
Application No. 10/942,537
Filed: September 15, 2004
Attorney Docket No. IL-10918

DECISION ON PETITION

This is a decision on the REQUEST FOR REMOVAL OF A DOCUMENT which is being treated as a petition under 37 CFR 1.59(b), filed February 4, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to expunge information from an application. In this instance, the fee required by law is $200.

The petition in the above identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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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 communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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DARBY & DARBY (formerly Sacco & Associates)
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Paul B. Koeneman :
Application No.: 10/942,539 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No.: 17162/0207696-US0 :

This is a decision on the petition, filed June 8, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 3, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3741 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of :
John D. Hilgren et al. :
Application No. 10/942,544 : DECISION ON PETITION
Filed: September 16, 2004 : TO WITHDRAW
Attorney Docket No. 163.1397USI1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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 Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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AUG 31 2005

In re Application of		:	
Mark P. Murphy et al.		:	
Serial No.	10/942,572	:	DECISION ON PETITION
Filed:	September 16, 2004	:	
For:	MULTI-POSITION PEELER APPARATUS	:	

This is a decision on the petition to make special filed on July 27, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3724 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Kit M. Stetina
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

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NORTH WEBER & BAUGH LLP
2479 E. BAYSHORE ROAD
SUITE 707
PALO ALTO CA 94303

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Silic and Peddie	:	
Application No. 10/942,580	:	DECISION REFUSING STATUS
Filed: 16 September, 2004	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 20007-0012	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 3 January, 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 16 September, 2004, without an executed oath or declaration. Accordingly, on 3 November, 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. A two (2) month period for reply was set.

In response, on 3 January, 2005, petitioners filed the present petition and fee, the late-filing surcharge, and a declaration naming Bojan Silic and Timm Peddie as joint inventors and signed by joint inventor Silic on behalf of himself and non-signing joint inventor Peddie.

Petitioners state that joint inventor Peddie was asked to review the application papers at counsel's office and sign the declaration. However, the non-signing inventor advised counsel by phone that he would not sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] 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.

Petitioners state that the non-signing inventor asked to be provided a copy of the application papers, but petitioners refused to provide it, instead requiring the non-signing inventor review the application at counsel's office. The showing of record, however, is that the non-signing inventor has not been afforded a sufficient opportunity to review the application.[2] The application papers should be sent or given to the non-signing inventor for his review.

---

[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX:
(703) 872-9306
Attn: Office of Petitions

By hand:
U.S. Patent and Trademark Office
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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PALO ALTO CA 94303

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MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Silic and Peddie	:	
Application No. 10/942,580	:	DECISION ACCORDING STATUS
Filed: 16 September, 2004	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 20007-0012	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 15 February, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application. Specifically, petitioners have established, via the declaration of registered patent attorney Michael V. North, that the nonsigning inventor, Timm Peddie, stated during a telephone conversation his refusal to sign the declaration. Further, the nonsigning inventor stated that petitioners' attorney was no longer to contact him directly.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be referred to Technology Center Art Unit 2632 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 03-05

Timm Peddie
2503 Alma Street
Palo Alto CA 94301

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of
Silic et al.
Application No. 10/942,580
Filed: 16 September, 2004
For: MULTI-PURPOSE WIRELESS COMMUNICATION DEVICE

Dear Mr. Peddie:

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

NORTH WEBER & BAUGH LLP
2479 E. BAYSHORE ROAD
SUITE 707
PALO ALTO CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/942,603	09/15/2004	2631	1072	4366-202	5	32	4

CONFIRMATION NO. 2645

CORRECTED FILING RECEIPT

OC000000014439418

Bradley M. Knepper
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver, CO 80202-5141

Date Mailed: 11/23/2004

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Applicant(s)

Peter David Goldman, Boulder, CO;
Matthew Duane McShea, Westminster, CO;

Power of Attorney:

David Volejnicek–29355
Marc Foodman–34110
Brian DiNicola–36122
Douglas Swartz–37739
Thomas Osborne Jr–39796
Brian Lefort–43747
Bradley Knepper–44189
Paul Gardon–48761
Kenneth Chan–55046

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/942,603

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Title

Method and apparatus for synchronizing clocks on packet-switched networks

Preliminary Class

370

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In Re Application of :
Stephen G. PERLMAN, et al. :
Application Serial No. 10/942,609 :
Filed: September 15, 2004 :
For: **APPARATUS AND METHOD FOR CAPTURING THE MOTION OF A PERFORMER** :

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed September 15, 2004, requesting acceptance of color drawings and color photographs.

The petition requests that the color drawings/photographs, noted as figures 5a, 5b, 6 and 9 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), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, 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 patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

Petitioner has met the requirements set forth above. Accordingly, the petition is **Granted**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications